

***United States Court of Appeals
for the Second Circuit***



JOINT APPENDIX

76-7462

ORIGINAL
WITH PROOF
OF SERVICE

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

B

P/S

DOMACO VENTURE CAPITAL FUND, a limited partnership,

Plaintiff-Appellant,

-against-

TELTRONICS SERVICES, INC., SHASKAN & CO., INC., CLAUDE C. CONTI, EDWARD M. BEAGAN, THOMAS R. RAMSEY, DAVID A. LaCONTE, GERARD F. HUG, GILBERT MONICK and JEFFREY A. MOROSS,

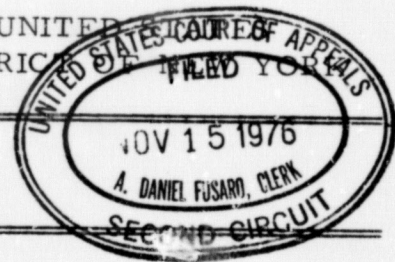
Defendants.

TELTRONICS SERVICES, INC., EDWARD M. BEAGAN, DAVID A. LaCONTE, GERARD F. HUG, and GILBERT MONICK,

Defendants-Appellees.

ON APPEAL FROM AN ORDER OF THE UNITED
DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

APPENDIX



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PAGINATION AS IN ORIGINAL COPY

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BEST COPY AVAILABLE

A-1

DOCKET ENTRIES

CIVIL DOCKET

UNITED STATES DISTRICT COURT

JUDGE HANNE

Any demand date

74 Civ. 3014

CLASS ACTION.

D. C. Form No. 106 Rev.

TITLE OF CASE

DOMAGO VENTURE CAPITAL FUND,
LIMITED PARTNERSHIP,

BERMAN AND ZIVYAY,
450 Park Avenue, N.Y.C. 10022 593- 1570

VS.

TELTRONICS SERVICES, INC.
HASKIN & CO. INC.

CLAUDE C. CONTI,
EDWARD M. BEAGAN,
THOMAS R. RAMSEY,
DAVID L. LA CONTE,
GERARD F. HUG,
GILBERT MONICK, AND
JEFFREY A. MOROSS.

(Defts.)

WEIL GUTERMAN & MANGES
767 Fifth Ave-NYC 10022 (758-7800)
(for Defts. Teltronics, services, Inc-
Edward M. Beagan, David L. LaConte, Gerard
F. Hug and Gilbert Monick

STATISTICAL RECORD	COSTS	DATE	NAME OF PARTY	FILE
J.S. 5 mailed <input checked="" type="checkbox"/>	Clerk	7/16/74	Berman - 2	15 -
J.S. 6 mailed	Marshal	7/18/74	U.S. Marsh	15 -
Basis of Action:	Docket fee			
S.E.C. ACT. 1933 & 34	Witness fees			
Action arose at:	Depositions			

DOCKET ENTRIES

DOMACO VENTURE CAPITAL FUND, INC., VS. TELTRONICS SERVICES, INC. ET AL

(Page #2)

74 Civ. 301

	PROCEEDINGS	Date Order or Judgment Noted
10-74	Filed complaint. Issued Summons.	
74	Filed defts. Teltronics Services, Inc., Edward M. Beagan, David A. LaConte, Gerard F. Hug and Gilbert Monick notice of appearance.	
6-74	Filed summons and return-served the following:	
	Gerald Hug by Robert Chanda on 7-26-74	
	David A. LaConte by Robert Chanda on 7-26-74	
	Teltronic Services, Inc. by Robert Chanda on 7-17-74	
	Thomas P. Ramsey- UNEXECUTED-7-17-74	
	Edward Beagan by Robert Chanda on 7-26-74	
	Gilbert Monick by Robert Chanda on 7-26-74	
12-74	Filed stip & order that the time for defts. Teltronics Services, Inc., Edward M. Beagan, David A. LaConte, Gerard F. Hug and Gilbert Monick to answer is extended to 9-1-74 and that pliff's time to move for a class determination is extended to 10-7-74. So ordered- CANNELLA, J.	
74	Filed ANSWER of defts. TELTRONIC SERVICES, INC., E.M. BEAGAN, D.A. LACONTE, GERARD F. HUG, and G. Monick to the complaint.	WG&M.
7-74	Filed defts' interregs.	
0-74	Filed notice of motion(pltff's)that action be maintained as a class action..Hct. Oct. 1, 1974	
20-74	Filed memorandum in support of above motion.	
-74	Filed stip & order that pliff. will file its answers to interregs. on or before 10-15-74 and that the return date of pliff's motion for a class action determination is adjourned from 10-1-74 to 10-31-74 with answering papers served on or before 10-25-74 and reply papers served before the Oct. 31 return date. So ordered- CANNELLA, J.	
7-74	Filed supplemental service and return- served: Shaskan & Co. Inc. by Bruce Stuart on 10-1-74	
16-74	Filed Order- this matter be referred to Magistrate Jacobs for assignment to a Magistrate to supervise all pre-trial discovery and devise a schedule and that all discovery relating to pliff's motion for a class action determination to be completed within sixty days. Said motion is adjourned sine die pending compliance with the above. CANNELLA, J. (m/n)	
21-74	Filed defts. Teltronics Services, Inc., Edward M. Beagan, David LaConte, Gerard F. Hug and Gilbert Monick notice of taking deposition of pliff. on 11-4-74	
74	PRE-TRIAL CONFERENCE HELD BY Goette, U.S. MAG.	
10-74	Filed defts. Teltronics Services, Inc., Edward M. Beagan, David LaConte, Gerard F. Hug and Gilbert Monick ("Teltronics") notice of taking deposition of Harry T. Zucker on 12-9-74	
8-74	PRE-TRIAL CONFERENCE HELD BY Goette, U.S. MAG.	
3-74	PRE-TRIAL CONFERENCE HELD BY Goette, U.S. MAG.	
10-74	Filed Amended Order- this Court's order dated 10-17-74 is amended to allow the parties an additional thirty days to complete discovery relating to pliff's motion for class action determination. Discovery is to be completed no later than 1-17-75. The adjournment of the class action motion is continued sine die. CANNELLA, J. (m/n)	
13-75	Pre trial conference held by Goette, U.S. MAG.	
17-75	PRE-TRIAL CONFERENCE HELD BY Goette, U.S. MAG.	
21-75	Filed report and recommendation of Magistrate Goette.	(To Jmc)
19-75	Filed and endorsed on motion filed 9-20-74. Ordered that def's motion to compel answers to interregs. is granted to the extent set forth in the report and recommendation of Magistrate Goette and as indicated. All answers to interregs. are to be submitted no later than 2-28-75 and that pliff. supply the documents requested by def's counsel's letter of 1-16-75 or serve responsive objections on or before 2-28-75. So ordered- CANNELLA, J. (m/n)	

(CONT'D - PAGE #3)

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DOCKET ENTRIES

77. 1011-- DOMACO VENTURE CAPITAL FUND, etc.- vs- TELTRONICS SERVICES, INC., et al

74CIV. 301

(PAGE # 3)

CANNELLA, J.

10 Rev. Civil Docket Continuation

RE	PROCEEDINGS	Date Order or Judgment Noted
16-75	Filed Rulings on deposition objections. So ordered- Goettel, U.S. Mag. (m/n)	
17-75	Filed Defts Affidavit & Notice of Motion for an order granting leave to depts Teltronics Services, Inc. E. Beagan, D.A. LaConte G.F. Hug and Gilbert Monick to file and serve an amended answer, etc., as indicated rble. on 6-5-75.	
18-75	Filed memorandum in support of depts motion for leave etc. as indicated.	
19-75	Filed stip & order that the return date of depts' Teltronics Services, Inc., Edward M. Beagan, David A. LaConte, Gerard F. Hug and Gilbert Monick motion, dated 5-22-75, is adjourned from 6-5-75 to 7-3-75, etc. as indicated. So ordered- CANNELLA, J.	
19-75	Filed plttf's affdvt. and notice of motion for an order striking certain portions of the amended answer and alternatively granting the plttf and third-pty depts. Jack Polak and Equity Interest, Inc. summary judgment dismissing the first through sixth claims for relief in the amended answer, etc. as indicated. Ret 7-3-75	
19-75	Filed plttf's memorandum of law	
3-75	Filed depts Teltronics Services, Inc., Edward M. Beagan, David A. LaConte, Gerard F. Hug and Gilbert Monick memorandum in opposition to plttf's motion to strike, for summary judgment or to sever.	
3-75	Filed depts' memorandum in opposition to motion pursuant to Rule 23 (c) (1) ERCP	
3-75	Filed depts. Teltronics Services, Inc., Edward M. Beagan, David A. LaConte, Gerard F. Hug and Gilbert Monick affdvt. of Dennis J. Block and Exhibits and Rule 9 (g) statement	
3-75	Filed affdvt. of Jay Mancini of attempted service and affdvt. of service by mail by Stephanie Runco re: the above	
18-75	Filed Plttf's Supplemental Affidavit in further support of plttf's motion pursuant to Rule 23 Fed.R.Civ.P. for class action treatment.	
1-76	Filed Memorandum and Order-opinion No. 44953-for the reasons stated, Motions of the Teltronics depts to serve and file a third-pty complaint, cross-claims and a first amended answer, are granted. Motions of Jack Polak pursuant to Rules 12(f), 56 & 42(b) of ERCP are denied., etc. as indicated and Polak's motion to sever the first thru fourth claims of the third-pty complaint from the trial of this ac on is denied without prejudice to renewal at a later date when th. issues to be tried have been defined. So Ordered. CANNELLA, J. m-n	
13-76	Filed notice of appeal from order entered on Aug. 11, 1976. Copy to Weil, Gotshal & Manges 767 5th Ave. NYC	
17-76	Filed Deft. (Teltronics Services, Inc., E.M. Beagan, D.A. LaConte, G.F. Hug and G. Monick) Amended Answer, Counterclaim, Crossclaim and Thirdparty Compl.	
17-76	Filed Notice that Original record on appeal has been certified and transmitted to U.S.C.A. on Sept. 17, 1976	
27-76	Filed Plttf-Counterclaim deft's Domaco Venture Capital Fund, Inc.	
	REPLY	
29-76	Filed Plttf's Affidavit and Notice of Motion for an order permitting Nathan Scharff to intervene as a party plttf etc. RET: 10-7-76.	(B&Z)
18-76	Filed stip & order adjourning plttf's motion to permit the intervention of Nathan Scharff as a party plttf and designating him as a representative of the class from 10-7-76 to 11-16-76 and as indicated. So ordered- CANNELLA, J.	
9-76	Filed stip and order extending time for counterclaim, cross-claim and third-pty deft Stanley Bartels to move re: counterclaims, etc. to 11-12-76. So Ordered. CANNELLA, J.	
20-76	Filed depts. Teltronics Services, Inc., Edward M. Beagan, David LaConte, Gerard F. Hug and Gilbert Monick notice of taking deposition upon oral examination of proposed intervenor Nathan Scharff on 10-22-76	

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SUMMONS

SUMMONS IN A CIVIL ACTION

CIV. 1 (2-64)
(Formerly D. C. Form No. 45 Rev. (6-49))

United States District Court

FOR THE

SOUTHERN DISTRICT OF NEW YORK

11 Civ 3014

CIVIL ACTION FILE NO. JMC

DOMACO VENTURE CAPITAL FUND,
a limited partnership

Plaintiff

v.

TELTRONICS SERVICES, INC., CLAUDE C. CONTI,
EDWARD M. BEAGAN, THOMAS R. RAMSEY;
DAVID A. LaCONTE, GERARD F. HUG,
GILBERT MONICK, and JEFFREY A. MOROSS,

Defendants

SUMMONS 6

To the above named Defendant s:

You are hereby summoned and required to serve upon BERMAN AND ZIVYAK,
plaintiff's attorney s, whose address is 450 Park Avenue, New York, New York 10022,

an answer to the complaint which is herewith served upon you, within days after service of this
summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be
taken against you for the relief demanded in the complaint.

Raymond A. Berk
Clerk of Court.
Ch. Berk
Deputy Clerk.

Date: July 16, 1974

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

COMPLAINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK.

DOMACO VENTURE CAPITAL FUND,
a limited partnership,

74 CIV.

Plaintiff, :

against :

COMPLAINT-CLASS ACTION

TELTRONICS SERVICES, INC.,
SHASKAN & CO., INC., CLAUDE C. CONTI,
EDWARD M. BEAGAN, THOMAS R. RAMSEY,
DAVID A. LaCONTE, GERARD F. HUG,
GILBERT MONICK and JEFFREY A. MOROSS,

Defendants :

Plaintiff, by its attorneys, BERMAN AND ZIVYAK, on its own behalf and on behalf of certain purchasers of the common stock of TELTRONICS SERVICES, INC., complaining of the defendants, respectfully alleges:

JURISDICTION AND VENUE

1. This action arises under Sections 11, 12 and 17 of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and the rules and regulations of the Securities Exchange Commission promulgated thereunder.

2. The jurisdiction of this Court and the venue of this action are founded upon Section 22 of the Securities Act and Section 27 of the Securities Exchange Act.

3. The acts and transactions hereinafter complained of were effected through the use of means and instrumentalities of interstate commerce and a substantial number of said acts or transactions occurred within the Southern District of New York.

CLASS ACTION ALLEGATIONS

4. Plaintiff brings this action as a class suit pursuant to

COMPLAINT

Rule 23(b)(1)(A), (b) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of itself and all purchasers of Teltronics Services, Inc. similarly situated (i.e., pursuant to a Prospectus dated January 9, 1973).

5. There are many hundreds of persons who are members of the class, located in various parts of the country.

6. Plaintiff and its counsel, who are experienced in matters under the Federal Securities Laws, will fairly and adequately protect the interests of the class. Plaintiff's interest is to obtain substantial relief for itself and the class for the violations of law set forth herein.

7. The similarity of plaintiff's claims to those of the member of the class will assure that plaintiff fairly and adequately represents the interest of the class. Plaintiff and its counsel are prepared to, and intend to, prosecute this action vigorously.

8. Virtually all questions of law and fact are common to the class since the class claims herein arise by virtue of the material misrepresentations and failure to state facts required to be disclosed in a Prospectus employed by the defendants in connection with the offering and sale of 200,000 shares of common stock at \$10.00 per share on January 9, 1973.

9. (a) The questions of law and fact that are common to the class predominate over questions affecting only individual members.

(b) A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

(c) The statutory misconduct perpetrated by the defendants were perpetrated on all members of the class, namely, purchasers of the common stock of Teltronics Services, Inc.

A-7
COMPLAINT

(d) A multiplicity of suits in various jurisdictions by stockholders all over the United States with consequent burdens on the courts and the defendants should be avoided.

(e) It would be virtually impossible for all of said stockholders to intervene as parties plaintiff in this action.

(f) To the best of plaintiff's knowledge, information and belief, there was no pending litigation by members of the class concerning the controversy commenced prior to the commencement of this action.

(g) When the liability of the defendants has been adjudicated, claims of all members of the class can be filed in, and determined by, this Court.

(h) This class action will foster orderly and expeditious administration of the class claims; economies of time, effort and expense will be fostered; and uniformity of decision will be ensured. This action presents an appropriate mechanism to prosecute the interests of all members of the class.

(i) This action presents no difficulties which would impede its management by the Court as a class action.

COUNT I

10. Plaintiff, Domaco Venture Capital Fund, purchased 500 shares of the common stock of Teltronics Services, Inc. ("Teltronics") on January 9, 1973.

11. The defendant, Teltronics Services, Inc., is a New York corporation which heretofore sold 200,000 shares of its common stock to the public pursuant to a Prospectus dated January 9, 1973.

A-8
COMPLAINT

12. The defendant, Shaskan & Co., Inc., is a member of the New York Stock Exchange and a qualified broker-dealer under the laws of the State of New York who acted as an underwriter pursuant to the offering of 200,000 shares of the common stock of Teltronics Services, Inc. to the public on January 9, 1973.

13. (a) The defendant, Claude C. Conti, at all of the times hereinafter referred to, was a director, Chairman of the Board, and President of Teltronics.

(b) The defendant, Edward M. Beagan, at all of the times hereinafter referred to, was a director and Executive Vice President of Teltronics.

(c) The defendant, Thomas R. Ramsey, at all of the times hereinafter referred to, was a director and Vice President-- Finance and Treasurer of Teltronics.

(d) The defendant, David A. LaConte, at all of the times hereinafter referred to, was Vice President of Teltronics.

(e) The defendant, Gerard F. Hug, at all of the times hereinafter referred to, was Vice President of Teltronics.

(f) The defendant, Gilbert Monick, at all of the times hereinafter referred to, was Vice President of Teltronics.

(g) The defendant, Jeffrey A. Moross, at all of the times hereinafter referred to, was Secretary of Teltronics.

14. The plaintiff, on or about January 9, 1973, purchased 500 shares of the common stock of Teltronics at \$10.00 per share in reliance upon the Prospectus used in connection with the offering

COMPLAINT

of 200,000 shares of Teltronics' common stock. Thereafter, the plaintiff sold 500 shares on November 30, 1973, at \$2.50 per share.

15. The Prospectus upon which the plaintiff relied in purchasing 500 shares hereinbefore referred to was false and misleading in that it contained material misrepresentations of fact and omitted to state facts necessary in order to make the facts stated correct and not misleading in that:

(a) The Prospectus, on page 3 under the heading, "INTRODUCTORY STATEMENT The Company," states:

"The Company does not manufacture any of the equipment it sells."

On page 10, under "BUSINESS Sales and Installations," the Prospectus contains the following sentence:

"All of the equipment sold by the Company is manufactured by others."

(i) Those statements referred to were false and misleading in that the Company at that time contemplated manufacturing its own proprietary telephone equipment and intended to use part of the proceeds from this offering for such purpose.

(b) Under the caption, "USE OF PROCEEDS," no mention was made of the Company's intention to allocate a proportion of the funds to be received from the offering for the manufacture of proprietary telephone equipment when in fact at least the sum of \$100,000 was actually expended shortly thereafter for the manufacture of proprietary systems.

COMPLAINT

(c) Under the caption, "Employees," the following sentence is set forth:

"The Company believes its employee relations to be satisfactory and has not experienced any strikes or work stoppages."

At the time the aforesaid statement was set forth, management of the Company, consisting of its officers and directors, were in complete disagreement about the basic philosophy of the Company as to its marking and/or proprietary manufacturing activities,, which finally erupted within two months after the completion of the public offering in a management split, the firing of the President, and a proxy fight which culminated on July 23, 1973.

(d) Under the caption, "BUSINESS Competition," the Prospectus contains the usual boiler-plate language:

"The Company competes not only with regulated telephone companies such as the New York Telephone Company, New Jersey Bell Telephone Company and Southern New England Telephone Company, but also with other independent interconnect companies, some of which sell equipment to the Company, such as International Telephone and Telegraph Company, North Electric Company and General Telephone and Electronics Corporation. A number of interconnect companies, such as Arcata Communications, Inc., have been in existence for longer periods of time than the Company and have greater financial resources. The equipment sold by the Company is readily available to others who may wish to enter into competition with the Company and the Company's continued ability to operate profitably is dependent on its ability to continue to obtain equipment on terms which enable it to sell such equipment at prices competitive with rental charges for equipment by regulated telephone companies."

The Prospectus omits to state that the real competition the Company faced was its inability to compete with American Telephone and Telegraph Company because the equipment offered by American Telephone and Telegraph Company in one State is often substantially

COMPLAINT

different in price from the same equipment offered in another State. American Telephone and Telegraph Company requires a charge for interconnect devices whenever a private system such as that sold by the Company is installed which effectively eliminates a large percentage of the potential telephone users from the market place; and that the delivery period for these devices ranges from two to six weeks, thus creating possible delays for private equipment users facing a moving deadline.

16. The defendant, Shaskan & Co., Inc., which underwrote the securities referred to herein, failed to exercise due diligence to ascertain the existence of all of the facts as set forth in the paragraph above, and had it used its due diligence to ascertain the true facts as they existed on the date of the offering, the aforesaid information would have been included in the Prospectus so that a reasonably prudent investor would have been apprised of these facts prior to purchasing the shares.

17. By reason thereof, plaintiff and all other persons similarly situated have been damaged in an amount as yet unascertainable.

WHEREFORE, plaintiff demands judgment against the defendants as follows:

(a) Rescissional damages in the amount of \$10.00 for each share purchased at the offering hereof.

(b) Damages suffered by the plaintiff and by all members of the class in an amount to be determined by the Court.

COMPLAINT

(c) Declaring this action to be a class action within the meaning of Rule 23 of the Federal Rules of Civil Procedure.

(d) For interest, costs and disbursements of this action.

(e) For reasonable attorneys' fees.

(f) For such other and further relief as is just and proper.

BERMAN AND ZIVYAN

By 

A Member of the Firm
Attorneys for Plaintiff
Office and P. O. Address:
450 Park Avenue
New York, N. Y. 10022
(212) 593-1570

PLAINTIFF DEMANDS A TRIAL BY JURY.

PLAINTIFF'S NOTICE OF MOTION TO MAINTAIN ACTION
AS A CLASS ACTION
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
DOMACO VENTURE CAPITAL FUND,
a Limited Partnership,

Plaintiff,

- against -

TELTRONICS SERVICES, INC., SHASKAN
& CO., INC., CLAUDE C. CONTI, EDWARD
M. BEAGAN, THOMAS R. RAMSEY, DAVID A.
LaCONTE, GERARD F. HUG, GILBERT
MONICK and JEFFREY A. MOROSS,

Defendants. ;

:
: Civil Action File
: No. 74 Civ. 3014 (JMC)
: NOTICE OF MOTION

-----x
S I R S :

PLEASE TAKE NOTICE that upon the pleadings filed herein,
and upon the annexed affidavit of Ir W. Berman, sworn to the
19th day of September, 1974, the undersigned will move this
Court before the Hon. John H. Cannella, at the United States
Courthouse, Room 1001, Foley Square, Borough of Manhattan, City
and State of New York, on the 1st day of ~~September~~ ^{October}, 1974, at
10:00 o'clock in the afternoon of that day, or as soon thereafter
as counsel can be heard, for an order that the action be main-
tained as a class action, and for such other and further relief
as to the Court may seem just and proper.

Dated: New York, N.Y. September 12, 1974

Yours, etc.

BERMAN AND ZIVYAK

By Ira W. Berman
Ira W. Berman
Member of the Firm
Attorneys for Plaintiff
450 Park Avenue
New York, N.Y. 10022
(212) 593-1570

TO:
Weil Gotshal & Manges
Attorneys for Defendants
~~60 East 42nd Street~~ 767-*Shue*
New York, N.Y. 10022

AFFIDAVIT OF IRA W. BERMAN, ESQ., FOR PLAINTIFF,
IN SUPPORT OF MOTION TO MAINTAIN ACTION AS A
CLASS ACTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
:
DOMACO VENTURE CAPITAL FUND,
a Limited Partnership,

Plaintiff, : 74 Civ. 3014 (JMC)

- against -

TELTRONICS SERVICES, INC., SHASKAN
& CO., INC., CLAUDE C. CONTI, EDWARD
M. BEGAN, THOMAS R. RAMSEY, DAVID A.
LaCONTE, GERARD F. HUG, GILBERT MONICK,
and JEFFREY A. MOROSS,

AFFIDAVIT IN SUPPORT
: OF PLAINTIFF'S MOTION
PURSUANT TO RULE 23

Defendants.
:
-----x

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

IRA W. BERMAN, being duly sworn, deposes and says:

I

BACKGROUND

1. Affiant is an attorney in law and a member of the firm of Berman and Zivvyak. I have been admitted to practice in the State of New York since 1955 and authorized to practice in the United States District Court for the Southern District of the State of New York since 1956. During the eighteen years that I have been practicing, my work and that of my partner, Jeffrey L. Zivvyak, has been as specialists in the field of federal and state securities laws. It has occurred to us that in listing the various matters we have listed below, such submission of facts might unintentionally sound either pompous or boastful. We assure the Court that no such attitude is intended or exists, having suffered sufficient professional reverses to view past successes as little comfort in reading the law correctly or paying the rent this year.

AFFIDAVIT OF IRA W. BERMAN, ESQ., FOR PLAINTIFF,
IN SUPPORT OF MOTION TO MAINTAIN ACTION AS A
CLASS ACTION

2. Your affiant's activities at the bar have, however, resulted in several important decisions in the field of securities law to date. I was counsel to the plaintiffs in a landmark decision, Wine v. Beneficial Finance Company, 374 F. 2d 627 (2nd Cir. 1967). That case expanded the "purchaser-seller" doctrine and is being cited continuously as a landmark case construing Rule 10b-5.

3. Your deponent was also quite instrumental in working with the Securities and Exchange Commission in causing the suspension of trading in Clinton Oil Company's common stock and the making of a motion for the appointment of a receiver. Securities and Exchange Commission v. Clinton Oil Company, et al. United States District of Kansas, Wichita Division, Civil Action No. W-5020.

4. Our firm commenced an action against R. P. Clinton on behalf of Clinton Oil Company despite being "enjoined" from so proceeding by a local court in Wichita, Kansas, a court which had no jurisdiction over our client. The local court held him in contempt of court and we were required to procure an injunction to stay the proceedings against our client. The stay was fiercely contested, Bekoff v. Clinton, 344 F. Supp. 642 (S.D.N.Y. 1972).

5. In 1971 we commenced a law suit, Polak v. California Time Petroleum, Inc., in the United States District Court for the Southern District of New York, Civil No. 71 Civ. 626, on behalf of approximately sixty purchasers of participations in an oil venture. After extensive depositions and a motion for summary judgment, the case was transferred to the United States District Court for the Central District of California where the action was amended to be a class action. Todd Smith, et al. v. California Time Petroleum,

AFFIDAVIT OF IRA W. BERMAN, ESQ., FOR PLAINTIFF,
IN SUPPORT OF MOTION TO MAINTAIN ACTION AS A
CLASS ACTION

Inc., Civil No. 71-2668-12. On February 16, 1973, a judgment was entered on behalf of the plaintiffs in the amount of \$1,446,173.85. As a result of our efforts on behalf of our clients and the non-litigant members of the class, we were awarded counsel fees of approximately \$243,000.

6. Since the commencement of the aforesaid litigation, the Securities and Exchange Commission has promulgated an entire new set of rules and regulations pertaining to the sale of participating units which does away with the credit sales. We have reason to believe that our litigation had a great deal to do with the change.

7. We have a case pending in the United States Court of Appeals for the Second Circuit, John Schlick v. Penn-Dixie Corp., et al., United States District Court for the Southern District of New York, Civil No. 73-2677 which also involves substantial questions of Securities Laws. The suit was brought on behalf of the stockholders of Continental Steel Corporation, a firm formerly traded on the New York Stock Exchange and seeks damages under Rule 10(b)5 and Section 14(a).

8. My partner, Jeffrey L. Zivnyak, prior to our association as partners, was involved in many complex Securities Act litigations as an associate at Golenbock and Barell and Seligson and Morris involving such corporations as Commonwealth United Corp., Perfect Film and Chemical Corp., Giffen Industries, Glickman Construction and Ira Haupt and Company. I have not enumerated all of the corporate litigations in which your affiant has been personally involved.

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IN SUPPORT OF MOTION TO MAINTAIN ACTION AS A
CLASS ACTION

9. Much of our practice, however, is as securities specialists operating out of court. I have represented underwriters in at least sixty registrations over the past ten years. We have acted as counsel to several important underwriters as well as public companies. The Court is well aware of the serious responsibilities of counsel in the investigation and writing of registration statements as set forth in recent decisions of the Federal Courts.

10. Several of our clients are acquisition minded and in the past few years your affiant has personally negotiated twelve complex major acquisitions, the largest of which was a \$20,000,000 purchase of a steel mill in St. Louis, Missouri. Our experience in negotiating mergers, writing proxy statements, tender offers and acquisition contracts is what led me into a careful analysis of the facts in the present case and the decision to embark upon this difficult and expensive litigation on a wholly contingent basis.

II

THE CLASS ACTION

11. With respect to the affiant's background in this particular litigation, affiant has personally reviewed the original Prospectus upon which the shares were originally offered to the public, the Notice of Annual Meeting of Stockholders, and the Proxy Statement submitted therewith. I have studied the Prospectus and the footnotes to the financial statements contained therein, as well as the Annual Report for the year ended December 31, 1972.

AFFIDAVIT OF IRA W. BERMAN, ESQ., FOR PLAINTIFF,
IN SUPPORT OF MOTION TO MAINTAIN ACTION AS A
CLASS ACTION

In short, affiant is very familiar with the facts involved in this litigation and the law upon which this litigation is based.

12. The class which our firm seeks to represent consists of all purchasers of the shares of Teltronic Services, Inc. who purchased shares commencing on January 9, 1972 and for a period of ninety days thereafter.

13. The plaintiff, Domaco Venture Capital Fund, is a frequent investor in securities whose general partner is a registered investment adviser who purchased the shares herein for its account. If new suits are filed, it is affiant's judgment that the same issues of fact and law would be common on the prosecution of the claims.

14. Based upon affiant's past legal experience and review of the facts and law herein, the most feasible method of expediting the handling of this litigation is by maintaining a class action.

15. As pointed out in the foregoing, there is no question, but that there are common, if not identical, questions of law and fact herein.

16. The individual plaintiff and your affiant's firm will fairly, adequately and vigorously protect the interests of the class.

17. In affiant's judgment, the maintenance of a class action is the best available vehicle for the fair adjudication of this controversy. The parties are numerous, the evidentiary matter to be produced at trial will be voluminous and the thought

AFFIDAVIT OF IRA W. BERMAN, ESQ., FOR PLAINTIFF,
IN SUPPORT OF MOTION TO MAINTAIN ACTION AS A
CLASS ACTION

of more than one litigation could be highly prejudicial both to the plaintiff and the defendants inasmuch as the issues are exactly the same for every holder of the common stock of Noel Industries, Inc.

18. Your deponent does not expect to encounter any difficulties in the management of the class. Based upon affiant's background in the management of class actions, it is affiant's opinion that the action is quite easy to maintain as a class action.

19. It is respectfully requested that this action be ordered to proceed as a class action under F. R. Civ. P. 23(b)(3), and the class defined as it is in the complaint.

Ira W. Berman

Ira W. Berman

Sworn to before me this

19th day of Sept., 1974.

Elizabeth Cornwell

ELIZABETH CORNWELL
Notary Public, State of New York
No. 24-5822750
Qualified in Kings County
Cert. Filed in New York County
Commission Expires March 30, 1976

DEFENDANTS TELTRONICS, BEAGAN, LA CONTE, HUG
AND MONICK'S NOTICE OF MOTION FOR LEAVE TO
FILE AMENDED ANSWER, COUNTERCLAIM, CROSS-CLAIM
AND THIRD-PARTY COMPLAINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOMACO VENTURE CAPITAL FUND,
a limited partnership,

Plaintiff,

-against-

TELTRONICS SERVICES, INC., SHASKAN &
CO., INC., CLAUDE C. CONTI, EDWARD M.
BEAGAN, THOMAS R. RAMSEY, DAVID A.
LaCONTE, GERARD F. HUG, GILBERT MONICK
and JEFFREY A. MOROSS,

Defendants.

NOTICE OF MOTION FOR
LEAVE TO FILE AMENDED
ANSWER, COUNTERCLAIM,
CROSS-CLAIM AND
THIRD-PARTY COMPLAINT

74 Civ. 3014
(J.M.C.)

S I R S :

PLEASE TAKE NOTICE that upon the affidavit of
Dennis J. Block, sworn to May 20, 1975, the Exhibits annexed
thereto, and upon all the papers and prior proceedings had
herein, the undersigned will move this court on June 5, 1975
in Room 1001, United States Courthouse, Foley Square, New York
New York at 10:00 A.M., or as soon thereafter as counsel may
be heard, (1) for an Order pursuant to Rules 13(g), 14(a)
and 15(a) of the Federal Rules of Civil Procedure granting
leave to defendants, Teltronics Services, Inc., Edward M.
Beagan, David A. LaConte, Gerard F. Hug and Gilbert Monick
("defendants") to file and serve a first amended answer in
order to restate paragraph "12" and their fourth, fifth and
sixth affirmative defenses set forth in defendants' original
answer to reflect the discovery had herein; and to assert

DEFENDANTS TELTRONICS, BEAGAN, LA CONTE, HUG
AND MONICK'S NOTICE OF MOTION FOR LEAVE TO
FILE AMENDED ANSWER, COUNTERCLAIM, CROSS-CLAIM
AND THIRD-PARTY COMPLAINT

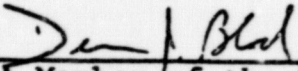
cross-claims against defendant Shaskan & Co., Inc. and to file and serve a third-party summons and complaint upon Jack Polak, Equity Interest, Inc., Meyer Buchman, Joseph Buchman and Stanley Bartels ("third-party defendants"), a copy of which is annexed to the moving affidavit, on the grounds that defendant Shaskan & Co., Inc. and the third-party defendants are or may be liable in contribution to defendants for all or part of the plaintiff's claim against defendants; and (2) for an Order, pursuant to Rules 13(f), (g) and (h) and 15(a) of the Federal Rules of Civil Procedure, granting leave to defendant Teltronics Services, Inc. to file and serve an amended answer containing counterclaims against plaintiff Domaco Venture Capital Fund and cross-claims against defendant Shaskan & Co., Inc., and to file and serve an additional party summons and complaint upon Jack Polak, Equity Interest, Inc., Meyer Buchman, Joseph Buchman and Stanley Bartels on the ground that justice so requires in order that all issues between the parties arising out of the transactions or occurrences that are the subject matter of the plaintiff's original complaint may be fully litigated in one action, and for such other and further relief as to the

DEFENDANTS TELTRONICS, BEAGAN, LA CONTE, HUG
AND MONICK'S NOTICE OF MOTION FOR LEAVE TO
FILE AMENDED ANSWER, COUNTERCLAIM, CROSS-CLAIM

court may seem just and proper.

Dated: New York, New York
May 22, 1975

WEIL, GOTSHAL & MANGES
Attorneys for Teltronics Services,
Inc., Edward M. Beagan, David A.
LaConte, Gerard F. Hug and Gilbert
Monick
767 Fifth Avenue
New York, New York 10022
(212) 758-7800

By 
A Member of the Firm

TO: BERMAN AND ZIVYAK
Attorneys for Plaintiff
Domaco Venture Capital Fund
434 Park Avenue
New York, New York 10022

SHASKAN & CO., INC.
16 Beaver Street
New York, New York 10004

AFFIDAVIT OF DENNIS J. BLOCK, ESQ., FOR DEFENDANTS
TELTRONICS, BEAGAN, LA CONTE, HUG AND MONICK, IN
SUPPORT OF MOTION FOR LEAVE TO FILE AMENDED
ANSWER, COUNTERCLAIM, CROSS-CLAIM AND THIRD-PARTY
COMPLAINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DOMACO VENTURE CAPITAL FUND,
a limited partnership,

Plaintiff,

-against-

TELTRONICS SERVICES, INC., SHASKAN &
CO., INC., CLAUDE C. CONTI, EDWARD M.
BEAGAN, THOMAS R. RAMSEY, DAVID A.
LaCONTE, GERARD F. HUG, GILBERT MONICK
and JEFFREY A. MOROSS,

Defendants.
-----X

ATTORNEY'S AFFIDAVIT

74 Civ. 3014
(J.M.C.)

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

DENNIS J. BLOCK, being duly sworn, deposes and says:

1. I am a member of the firm of Weil, Gotshal &
Manges, attorneys for defendants, TELTRONICS SERVICES, INC.
("Teltronics"), EDWARD M. BEAGAN, DAVID A. LaCONTE, GERARD F.
HUG and GILBERT MONICK ("defendants").

2. I am familiar with all the prior proceedings
heretofore had in this action and make this affidavit in sup-
port of defendants' motion pursuant to Rules 13(g), 14(a) and
15(a) of the Federal Rules of Civil Procedure for an Order
granting defendants leave to file and serve a first-amended
answer in order to restate paragraph "12" and their fourth,
fifth and sixth affirmative defenses set forth in defendants'
original answer to reflect the discovery had herein, and to

AFFIDAVIT OF DENNIS J. BLOCK, ESQ., FOR DEFENDANTS
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SUPPORT OF MOTION FOR LEAVE TO FILE AMENDED
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COMPLAINT

assert cross-claims against defendant Shaskan & Co., Inc.
and to a file and serve third-party summons and complaint
upon Jack Polak, Equity Interest, Inc., Meyer Buchman,
Joseph Buchman and Stanley Bartels. A copy of such first
amended answer, counterclaim, cross-claim and third-party
complaint is annexed hereto as Exhibit "A".

3. I also make this affidavit in support of Tel-
tronics' motion pursuant to Rules 13(f), (g) and (h) and 15(a)
of the Federal Rules of Civil Procedure for an Order granting
Teltronics leave to file a first amended answer asserting,
counterclaims against Domaco Venture Capital Fund, and cross-
claims against Shaskan & Co., Inc. and to file and serve an
additional party summons and complaint upon Jack Polak,
Equity Interest, Inc., Meyer Buchman, Joseph Buchman and
Stanley Bartels. Exhibit "A" which is annexed hereto sets
forth the substance of Teltronics' claims.

4. This action was commenced on July 17, 1974,
by the service of the summons and complaint on defendants.
The complaint charges Teltronics, certain present and former
directors and officers, and Shaskan & Co., Inc., the managing
underwriter of the public offering of Teltronics' common
stock with material misrepresentations and omissions allegedly
contained in a Prospectus dated January 9, 1973 (the "Prospectus").
This action purports to be brought on behalf of a class con-
sisting of all purchasers of Teltronics' common stock pursuant
to the Prospectus during the period from January 9, 1973 and for a

AFFIDAVIT OF DENNIS J. BLOCK, ESQ., FOR DEFENDANTS
TELTRONICS, BEAGAN, LA CONTE, HUG AND MONICK, IN
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period of ninety days thereafter. A copy of the complaint is annexed hereto as Exhibit "B".

5. On September 5, 1974, defendants served their answer to the complaint and denied the material allegations of the complaint and asserted certain affirmative defenses thereto. Thereafter on September 9, 1974, defendants served their first set of interrogatories which were directed at the merits of this lawsuit and plaintiff's alleged adequacy to represent the purported class. On September 24, 1974, defendants were served with plaintiff's motion for a class action determination. On October 17, 1974, this court at a pre-trial conference requested by defendants referred this action to Magistrate Goettel for the purpose of supervising all pre-trial discovery and specifically the discovery with respect to plaintiff's motion for a class action determination. It was not until the second week in November, 1974 that plaintiff served its unsworn, undated, and insufficient responses to defendants' interrogatories. Thereafter, defendants made an application to Magistrate Goettel for the purpose of compelling plaintiff to respond more fully to defendants' interrogatories. On February 14, 1975, this court specifically ordered plaintiff to respond more fully to defendants' interrogatories and to produce certain documents which were requested by defendants. To date that Order has not been fully complied with. On December 24, 1975 defendants commenced their deposition

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of Jack Polak which deposition was completed on March 27, 1975
subject to certain rulings by Magistrate Goettel.

6. On the basis of facts learned through answers
to interrogatories, the deposition of Jack Polak, and as
a result of information learned by defendants from other
sources, defendants have reason to believe that Shaskan &
Co., Inc., Meyer Buchman, Joseph Buchman, Jack Polak, Equity
Interest, Inc., and Stanley Bartels, are or may be liable to
defendants in contribution for all or part of the claims
asserted in the complaint. C

7. The cross-claims and third-party claims for
contribution allege in substance that:

(1) Stanley Bartels, who Shaskan & Co., Inc.
controlled within the meaning of Section 20(a) of the Secu-
rities Exchange Act of 1934 and which was in turn controlled
by Meyer Buchman and Joseph Buchman, made certain represen-
tations (outside the Prospectus) of material facts concern-
ing Teltronics to Jack Polak prior to the sale of Teltronics'
stock to the public. Jack Polak is a general partner of
Domaco Co., which in turn is the general partner of plain-
tiff Domaco Venture Capital Fund. Jack Polak is also the
President of Equity Interest, Inc., an investment adviser
engaged in the business of buying and selling securities for
its clients (including plaintiff Domaco Venture Capital Fund
and other purported members of the alleged class plaintiff

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seeks to represent). Stanley Bartels informed Jack Polak of his views with respect to the potential for future price appreciation of Teltronics' common stock, the Teltronics' management, the potential of Teltronics in the "interconnect" industry, and the earnings expectations for Teltronics during its first year as a public company. In addition, Stanley Bartels assured and/or guaranteed Jack Polak that he, Equity Interest, Inc., or his and/or its clients would not suffer any monetary loss as a result of any depreciation in the market price of Teltronics' common stock. Shaskan & Co., Inc., Stanley Bartels, Jack Polak and Equity Interest, Inc. knew or should have known that these representations were false and misleading. Based upon said misstatements and omissions Jack Polak and Equity Interest, Inc. induced and/or caused plaintiff Domaco Venture Capital Fund, limited partners of plaintiff, and approximately fifty other purported members of the alleged class plaintiff seeks to represent to purchase Teltronics' stock.

(2) Shaskan & Co., Inc. and Stanley Bartels gave certain improper and unlawful assurances and guarantees against any depreciation in the market price of Teltronics' stock which induced and/or caused Jack Polak to purchase Teltronics stock on behalf of the plaintiff and others. Polak, as a registered investment adviser and fiduciary, knew or should have known that these assurances and guarantees were improper.

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TELTRONICS, BEAGAN, LA CONTE, HUG AND MONICK IN
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(3) Shaskan & Co., Inc., Stanley Bartels, Jack Polak and Equity Interest, Inc. prior to the effective date of the public offering and pursuant to their duties as brokers, investment advisers and/or fiduciaries to plaintiff Domaco Venture Capital Fund, limited partners of plaintiff and certain other purported members of the alleged class plaintiff seeks to represent, undertook and made an independent investigation of Teltronics. Based upon that investigation these persons learned all material facts concerning Teltronics, including the "facts" plaintiff now alleges to be false and misleading or omitted. Despite their knowledge of the alleged facts, purported misleading statements and omissions, they induced and/or caused plaintiff Domaco Venture Capital Fund, limited partners of plaintiff and some fifty other purported members of the alleged class plaintiff seeks to represent to purchase Teltronics' common stock.

(4) Shaskan & Co., Inc., Meyer Buchman, Joseph Buchman, Jack Polak, Equity Interest, Inc. and Stanley Bartels sold Teltronics' common stock at a time they knew, in addition to the facts set forth in (1), (2), and (3) above, that Shaskan & Co., Inc., the prime market maker for Teltronics' common stock was in deep financial trouble and that the New York Stock Exchange was threatening to suspend its membership because of those difficulties; that if Shaskan & Co., Inc. was suspended, it could no longer trade or make a market in Teltronics' common stock and that the market

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price for Teltronics' common stock would decline precipitously. They failed to disclose this information to purchasers of Teltronics' stock.

8. The amending of defendants' answer to assert cross-claims against defendant Shaskan & Co., Inc., and the third-party complaint against the third-party defendants for contribution does not cause any prejudice to plaintiff at this very early stage of these proceedings, especially in view of the fact that no pretrial discovery on the merits of plaintiff's claims has been undertaken. If this court grants defendants' motion, then the third-party defendants can participate fully in all of the pre-trial discovery process. Moreover, leave to join the third-party defendants would make it unnecessary for defendants to institute a separate lawsuit against them. Conducting discovery on the same facts in separate actions would be a burden to the parties and witnesses alike and would work an unnecessary burden on the time of this court.

9. Based upon the discovery undertaken by Teltronics and the information learned as a result of an investigation made by it, Teltronics has reason to believe that plaintiff Domaco Venture Capital Fund, defendant Shaskan & Co., Inc., Meyer Buchman, Joseph Buchman, Jack Polak, Equity Interest, Inc., and Stanley Bartels are liable to Teltronics for claims, as more fully set forth in Exhibit "A", arising

AFFIDAVIT OF DENNIS J. BLOCK, ESQ., FOR DEFENDANTS
TELTRONICS, BEAGAN, LA CONTE, HUG AND MONICK, IN
SUPPORT OF MOTION FOR LEAVE TO FILE AMENDED
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COMPLAINT

under Section 10(b) of the Securities and Exchange Act of 1934 [15 U.S.C. 78 and 78(b)] and Rule 10b-5 [17 C.F.R. 240 10b-5] promulgated thereunder; Section 352-c of the General Business Laws of the State of New York; Section 720 of the Business Corporation Laws of the State of New York and the common law of the State of New York.

10. The transactions or occurrences which form the basis of the claims set forth in paragraph "9" hereof are: Teltronics on the recommendation and advice of Shaskan & Co., Inc. and Joseph Buchman repurchased 11,750 shares of its stock on May 17, 1973. Prior to such date, Shaskan & Co., Inc., Meyer Buchman, Joseph Buchman and Stanley Bartels learned that Shaskan & Co., Inc., Teltronics' prime market maker, was in deep financial trouble and that the New York Stock Exchange was threatening to suspend its membership because of those difficulties; that if Shaskan & Co., Inc. was suspended, it could no longer trade or make a market in Teltronics' common stock and that the market price for Teltronics' common stock would decline precipitously. Shaskan & Co., Inc. and Joseph Buchman did not disclose this material inside information to Teltronics before it repurchased its stock. Instead, Teltronics believes that Stanley Bartels in accordance with his previous assurances and guarantees to Jack Polak that he, Equity Interest, Inc. and their clients would not suffer any loss as a result of any

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depreciation in the market price of Teltronics' stock, made selective disclosure of the inside information to Jack Polak. Thereafter, Jack Polak and/or Equity Interest sold Teltronics' common stock for certain of their clients without disclosing to the public (including Teltronics) the inside information. On June 20, 1973, the New York Stock Exchange suspended Shaskan & Co., Inc.'s membership for failure to comply with its net capital rule. At or about the same time, the market price for Teltronics' stock declined precipitously. Teltronics has been damaged in the amount of \$85,187.50, representing the difference between the \$99,875 paid by Teltronics for its stock and the current market price for 11,750 shares thereof.

11. The addition of the counterclaims and cross-claims against the aforesaid parties is required for the granting of complete relief since the claims arise out of the transactions or occurrences that are the subject matter of the original action: Plaintiff has alleged that the Prospectus dated January 9, 1973 contained material misrepresentations and omissions; in its counterclaims and cross-claims Teltronics has alleged that plaintiff and other members of the purported class plaintiff seeks to represent, purchased Teltronics' stock based upon certain assurances and guarantees and that thereafter certain members of the alleged class sold their holdings in Teltronics on the

AFFIDAVIT OF DENNIS J. BLOCK, ESQ., FOR DEFENDANTS
TELTRONICS, BEAGAN, LA CONTE, HUG AND MONICK, IN
SUPPORT OF MOTION FOR LEAVE TO FILE AMENDED
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COMPLAINT

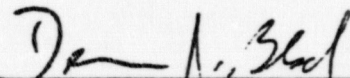
basis of inside information, and that plaintiff participated with Jack Polak and Equity Interest, Inc. in connection therewith. The joinder of certain additional parties will not deprive the court of jurisdiction of this action. In view of the fact that no pre-trial discovery as to the transactions or occurrences that are the subject matter of plaintiff's claim has been undertaken, we submit that there is no prejudice to plaintiff if Teltronics' motion for leave to amend is granted at this early stage of the proceeding. Leave to amend to assert these claims should also be granted on the ground that Teltronics should not be required to institute a separate lawsuit which will be duplicative of the discovery necessary in defense of the action herein. Moreover, conducting discovery in and then trying such a separate lawsuit would be a burden to Teltronics, the parties and witnesses alike and would work an unnecessary burden on the time of this court.

12. Paragraph "12" of the original answer has been amended so as to affirmatively aver that the Teltronics' public offering was made to the public on a "firm commitment basis". The original answer alleged as the fourth, fifth and sixth affirmative defenses respectively that "plaintiff and the purchasers who it represented or advised" are estopped, have waived, and are guilty of laches with respect to the claims alleged in the Complaint. It now

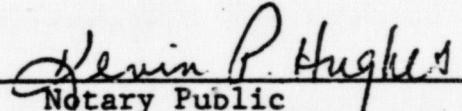
AFFIDAVIT OF DENNIS J. BLOCK, ESQ., FOR DEFENDANTS
TELTRONICS, BEAGAN, LA CONTE, HUG AND MONICK, IN
SUPPORT OF MOTION FOR LEAVE TO FILE AMENDED
ANSWER, COUNTERCLAIM, CROSS-CLAIM AND THIRD-PARTY
COMPLAINT

appears as a result of discovery herein that Jack Polak
and/or Equity Interest, Inc. represented or advised certain
purchasers of Teltronics stock. For this reason, defendants
request leave to amend their answer in order to plead that
plaintiff and other members of the class are subject to the
defenses of waiver, estoppel and laches.

For all of the foregoing reasons, defendants
respectfully submit that justice requires that the court
grant its motion in all respects.


Dennis J. Block

Sworn to before me this
22nd day of May, 1975


Notary Public

KEVIN P. HUGHES
Notary Public, State of New York
No. 30-6999450
Qualified in Nassau County
Commission Expires March 30, 1976

**EXHIBIT A TO BLOCK AFFIDAVIT - PROPOSED THIRD-
PARTY AND ADDITIONAL PARTY SUMMONS**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
DOMACO VENTURE CAPITAL FUND, :
a limited partnership, :

Plaintiff, :

-against- :

TELTRONICS SERVICES, INC., :
SHASKAN & CO., INC., CLAUDE C. :
CONTI, EDWARD M. BEAGAN, THOMAS :
R. RAMSEY, DAVID A. LaCONTE, :
GERARD F. HUG, GILBERT MONICK :
and JEFFREY A. MOROSS, :

Defendants. :

-----x
TELTRONICS SERVICES, INC., EDWARD M. :
BEAGAN, DAVID A. LaCONTE, GERARD F. :
HUG and GILBERT MONICK, :

This Party Plaintiffs, :

-against- :

JACK POLAK, EQUITY INTEREST, INC., :
STANLEY BARTELS, JOSEPH BUCHMAN :
and MEYER BUCHMAN, :

Third-Party Defendants, :

and :

TELTRONICS SERVICES, INC., :

Plaintiff, :

-against- :

DOMACO VENTURE CAPITAL FUND, a :
limited partnership, JACK POLAK, :
EQUITY INTEREST, INC., SHASKAN & CO., :
INC., STANLEY BARTELS, JOSEPH :
BUCHANAN and MEYER BUCHMAN, :

Counterclaim and Cross-Claim Defendants. :

THIRD-PARTY AND
ADDITIONAL PARTY
SUMMONS

74 Civ. 3014
(J.M.C.)

-----x

EXHIBIT A TO BLOCK AFFIDAVIT - PROPOSED THIRD-PARTY AND ADDITIONAL PARTY SUMMONS

To the above-named Third-Party Defendants and Counterclaim and Cross-Claim Defendants:

You are hereby summoned and required to serve upon Weil, Gotshal & Manges, attorneys for third-party plaintiffs, whose address is 767 Fifth Avenue, New York, New York 10022, upon Berman and Zivvyak, who are attorneys for Domaco Venture Capital Fund, plaintiff and counterclaim defendant, and whose address is 450 Park Avenue, New York, New York 10022, and defendant Shaskan & Co. Inc., whose address is 16 Beaver Street, New York, New York an answer to the third-party complaint and the counterclaims and cross-claims which are herewith served upon you within 20 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the third-party complaint. There is also served upon you herewith a copy of the complaint of the plaintiff which you may but are not required to answer.

Clerk of Court

Deputy Clerk

[Seal of Court]

Dated: May 20, 1975

Note: This summons is issued pursuant to Rules 4 and 14 of the Federal Rules of Civil Procedure.

**EXHIBIT A TO BLOCK AFFIDAVIT - PROPOSED
AMENDED ANSWER, COUNTERCLAIM, CROSS-CLAIM
AND THIRD-PARTY COMPLAINT**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DOMACO VENTURE CAPITAL FUND,
a limited partnership,

Plaintiff,

-against-

TELTRONICS SERVICES, INC.,
SHASKAN & CO., INC., CLAUDE C.
CONTI, EDWARD M. BEAGAN, THOMAS
R. RAMSEY, DAVID A. LaCONTE,
GERARD F. HUG, GILBERT MONICK
and JEFFREY A. MOROSS,

Defendants.

-----X
TELTRONICS SERVICES, INC., EDWARD M.
BEAGAN, DAVID A. LaCONTE, GERARD F.
HUG and GILBERT MONICK,

Third-Party Plaintiffs,

-against-

JACK POLAK, EQUITY INTEREST, INC.,
STANLEY BARTELS, JOSEPH BUCHMAN
and MEYER BUCHMAN,

Third-Party Defendants,

and

TELTRONICS SERVICES, INC.,

Plaintiff,

-against-

DOMACO VENTURE CAPITAL FUND, a
limited partnership, JACK POLAK,
EQUITY INTEREST, INC., SHASKAN & CO.,
INC., STANLEY BARTELS, JOSEPH
BUCHMAN and MEYER BUCHMAN,

Counterclaim and Cross-Claim Defendants.:
-----X

AMENDED ANSWER,
COUNTERCLAIM, CROSS-
CLAIM AND THIRD-
PARTY COMPLAINT

74 Civ. 3014
(J.M.C.)

EXHIBIT A TO BLOCK AFFIDAVIT - PROPOSED
AMENDED ANSWER, COUNTERCLAIM, CROSS-CLAIM
AND THIRD-PARTY COMPLAINT

Defendants, Teltronics Services, Inc., Edward M. Beagan, David A. LaConte, Gerard F. Hug and Gilbert Monick, by their attorneys, Weil, Gotshal & Manges, for their answer to the complaint herein, allege:

1. Deny each and every allegation contained in paragraph "1", except admit that this action purports to arise under Sections 11, 12 and 17 of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and the rules and regulations of the Securities Exchange Commission promulgated thereunder.

2. Deny each and every allegation contained in paragraph "2", except admit that the jurisdiction of this Court and the venue of this action purports to be founded upon Section 22 of the Securities Act and Section 27 of the Securities Exchange Act.

3. Admit the allegations contained in paragraph "3".

4. Deny each and every allegation contained in paragraph "4", except admit that plaintiff purports to bring this action as a class suit, pursuant to Rule 23(b)(1)(A), (b) and 23(b)(3) of the Federal Rules of Civil Procedure, on behalf of itself and all purchasers of Teltronics Services, Inc. ("Teltronics") similarly situated (i.e., pursuant to a Prospectus dated January 9, 1973).

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5. Deny knowledge or information sufficient to form a belief with respect to the truth of the allegations contained in paragraph "5".

6. Deny each and every allegation contained in paragraph "6", except deny knowledge or information sufficient to form a belief with respect to the truth of the allegation that plaintiff and its counsel are experienced in matters under the Federal Securities Laws.

7. Deny knowledge or information sufficient to form a belief with respect to the truth of the allegations contained in paragraph "7".

8. Deny each and every allegation contained in paragraph "8", except deny knowledge or information sufficient to form a belief with respect to the truth of the allegation that virtually all questions of law and fact are common to the class.

9. Deny knowledge or information sufficient to form a belief with respect to the truth of the allegations contained in paragraphs "9(a), (b), (d), (e), (f), (g), (h) and (i)", and deny each and every allegation contained in paragraph "9(c)".

ANSWERING THE ALLEGATIONS
OF COUNT I

10. Deny knowledge or information sufficient to form a belief with respect to the truth of the allegations contained in paragraph "10".

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11. Admit the allegations contained in paragraph "11".

12. Deny knowledge or information sufficient to form a belief with respect to the truth of the allegations contained in paragraph "12", except admit that defendant, Shaskan & Co., Inc. acted as an underwriter in connection with the offering of 200,000 shares of the common stock of Teltronics to the public on January 9, 1973, and aver that said offering was made to the public on a "firm commitment basis".

13. Admit the allegations contained in paragraph "13".

14. Deny knowledge or information sufficient to form a belief with respect to the truth of the allegations contained in paragraph "14".

15. Deny each and every allegation contained in paragraph "15", except refer to the Prospectus dated January 9, 1973 ("the Prospectus") for the true and correct terms and provisions thereof.

16. Deny each and every allegation contained in paragraph "16".

17. Deny each and every allegation contained in paragraph "17".

FIRST AFFIRMATIVE DEFENSE

18. The complaint fails to state a claim upon which relief can be granted.

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AND THIRD-PARTY COMPLAINT
SECOND AFFIRMATIVE DEFENSE

19. At the time of the acquisition of the shares of common stock of Teltronics, plaintiff and the members of the class on whose behalf it purports to sue, knew or should have known of the purported misrepresentations and omissions alleged in the complaint.

THIRD AFFIRMATIVE DEFENSE

20. Upon information and belief, one or more of the partners of the plaintiff served as an investment counselor, fiduciary, trustee or advisor to purchasers of the common stock of Teltronics, and in connection therewith made an independent investigation of Teltronics and its securities. As a result of such investigation, plaintiff and those purchasers who it represented or advised were fully familiar with the activities and operations of Teltronics, and therefore none of the purported misrepresentations and omissions of fact alleged in the complaint were material with regard to them.

FOURTH AFFIRMATIVE DEFENSE

21. Upon information and belief, plaintiff and other purported members of the alleged class plaintiff seeks to represent are estopped from asserting the claims alleged in the complaint.

FIFTH AFFIRMATIVE DEFENSE

22. Upon information and belief, plaintiff and other purported members of the alleged class plaintiff seeks to represent have waived the claims alleged in the complaint.

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AND THIRD-PARTY COMPLAINT

SIXTH AFFIRMATIVE DEFENSE

23. Upon information and belief, plaintiff and other purported members of the class plaintiff seeks to represent are guilty of laches in the assertion of the claims alleged in the complaint.

SEVENTH AFFIRMATIVE DEFENSE

24. After reasonable investigation, defendants had reasonable grounds to believe and did believe, at the time the Registration Statement containing the Prospectus became effective, that the statements contained therein were true and that there was no omission to state a material fact required to be stated therein or necessary to make the statements contained therein not misleading.

EIGHTH AFFIRMATIVE DEFENSE

25. Any damages suffered by plaintiff from the depreciation in value of the common stock of Teltronics were not caused by the purported misrepresentations and omissions alleged in the complaint, and by reason thereof such damages are not recoverable in this action.

NINTH AFFIRMATIVE DEFENSE

26. The claims alleged in the complaint are barred by the statute of limitations.

COUNTERCLAIMS, CROSS-CLAIMS
AND THIRD-PARTY CLAIMS

PARTIES

1. Plaintiff Domaco Venture Capital Fund, a limited partnership, has filed against defendants a complaint charging

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Teltronics Services, Inc., Shaskan & Co., Inc., Claude C. Conti, Edward M. Beagan, Thomas R. Ramsey, David A. LaConte, Gerald F. Hug, Gilbert Monick and Jeffrey A. Moross with material misrepresentations and omissions allegedly contained in a Prospectus dated January 9, 1973. Domaco Venture Capital Fund has brought this action as a class action purporting to represent a class of all purchasers of Teltronics' common stock who purchased shares commencing January 9, 1973, and for a period of ninety days thereafter. A copy of the complaint is annexed hereto as Exhibit "A".

2. Teltronics Services, Inc. ("Teltronics") is and at the time of the acts complained of herein was a New York corporation with its principal place of business located at 306 East 39th Street, New York, New York. Teltronics is engaged in the business of selling, installing and servicing telephone equipment for interconnection into telephone lines leased from regulated telephone companies.

3. Upon information and belief, counterclaim defendant Domaco Venture Capital Fund ("Domaco Fund"), a limited partnership, organized under the laws of New York is and at the time of the acts complained of herein was a closed-end investment company whose business purpose is the investing and reinvesting of the funds of the partnership in securities and the buying and selling of stocks, bonds and other securities for the account of the partnership.

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4. Upon information and belief, counterclaim, cross-claim and third-party defendant Jack Polak ("Polak") is and at the time of the acts complained of herein was a general partner of Domaco Co., which in turn is and at the time of the acts complained of herein was the general partner of Domaco Venture Capital Fund, a limited partnership. Polak is also the President of Equity Interest, Inc. Upon information and belief, Polak is an investment adviser registered with the Securities Exchange Commission (the "SEC") pursuant to the Investment Advisers Act of 1940 [15 U.S.C. §§ 80b et seq.] (the "Investment Advisers Act") and is engaged in the business of buying and selling securities for his clients (including Domaco Fund and other purported members of the alleged class Domaco Fund seeks to represent) on a discretionary basis.

5. Upon information and belief, counterclaim, cross-claim and third-party defendant Equity Interest, Inc. ("Equity Interest") is and at the time of the acts complained of herein was an investment adviser registered with the SEC pursuant to the Investment Advisers Act. Upon information and belief, Equity Interest is engaged in the business of buying and selling securities for its clients (including Domaco Fund and other purported members of the alleged class Domaco Fund seeks to represent) on a discretionary basis.

6. Upon information and belief, counterclaim and cross-claim defendant Shaskan & Co.; Inc. ("Shaskan") is and

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at the time of the acts complained of herein was a corporation organized under the laws of the State of New York; its principal place of business is located in New York City. Shaskan at all times relevant herein was registered with the SEC as a broker and dealer in securities and was at the time of the acts complained of herein a member firm of the New York Stock Exchange, Inc. (the "NYSE") and other securities and commodities exchanges. On June 20, 1973, Shaskan's membership on the NYSE was suspended for violations of the NYSE's net capital rule; and, thereafter, on or about July 11, 1973, as a result of an action commenced by the SEC, Shaskan was permanently enjoined by this Court from further violations of Section 15(c)(3) of the Exchange Act and Rule 15c3-1 promulgated thereunder (the "SEC's net capital rule").

7. Upon information and belief, counterclaim, cross-claim and third-party defendant Meyer Buchman ("M. Buchman") is and at the time of the acts complained of herein was the President, Director and a controlling person of Shaskan.

8. Upon information and belief, counterclaim, cross-claim and third-party defendant Joseph Buchman ("J. Buchman") is and at the time of the acts complained of herein was the Vice-President, Director and a controlling person of Shaskan and was, as nominee for Shaskan, a director of Teltronics.

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9. Upon information and belief, counterclaim, cross-claim and third-party defendant Stanley Bartels ("Bartels") was at the time of the acts complained of herein a Senior Vice President of Shaskan. Upon information and belief, Bartels is and at the time of the acts complained of herein was the account executive responsible for servicing the brokerage accounts of Polak, and certain of Polak's and Equity Interest's clients (including Domaco Fund and other purported members of the alleged class Domaco Fund seeks to represent).

10. The information and belief upon which the following allegations are based were derived in part, from facts contained in documentary evidence produced in this action and from the deposition of Jack Polak taken in this action.

ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

11. On January 9, 1973, the SEC made effective a Registration Statement pursuant to which Teltronics made a public offering of its common stock. This offering consisted of 200,000 shares of Teltronics' common stock at an offering price of \$10 per share. Pursuant to the terms of the Underwriting Agreement, the offering was made on a "firm commitment" basis, with the underwriters agreeing to purchase from Teltronics the entire number of shares offered. Shaskan was the managing underwriter and as such purchased 170,000 shares of the total number of shares offered by Teltronics.

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12. Prior to the offering, Teltronics was not a publicly owned company and there was no trading market for its securities. Subsequent to the completion of the public offering, Teltronics' common stock began trading in the over-the-counter market. Trading in Teltronics' stock opened on January 10, 1973, at \$10-1/4 bid and \$10-1/2 asked. On or about January 24, 1973, Shaskan became the prime market maker in Teltronics' common stock. Subsequently, the over-the-counter market price for Teltronics' common stock increased to \$12-1/4 bid and \$13 asked. On June 19, 1973, the over-the-counter market price for Teltronics' common stock was quoted at \$8-1/2 bid and \$9-1/2 asked.

13. Upon information and belief, sometime prior to the effective date for the public offering of Teltronics' common stock, Bartels caused a preliminary prospectus for Teltronics' common stock to be mailed to Polak. Thereafter and prior to the sale of Teltronics' stock to the public, Bartels communicated with Polak by telephone and on those occasions informed Polak of his views with respect to the potential for future price appreciation of Teltronics' common stock, the Teltronics' management, the potential of Teltronics in the "interconnect" industry, and the earnings expectations for Teltronics during its first year as a public company.

14. Upon information and belief, Bartels, in such conversations and communications, urged Polak and/or Equity Interest to invest his and/or its clients' money in Teltronics'

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common stock. Upon information and belief, Shaskan and Bartels assured and/or guaranteed Polak that he, Equity Interest, or his and/or its clients would not suffer any monetary loss as a result of any depreciation in the market price of Teltronics' common stock. Upon information and belief, Polak and/or Equity Interest agreed to purchase for his and/or its clients approximately 10,000 shares of Teltronics' common stock on the public offering. Thereafter, Polak and/or Equity Interest purchased from Shaskan on the public offering approximately 11,700 shares of Teltronics' common stock on behalf of approximately 50 of his and/or its clients.

15. Upon information and belief, Polak also made an independent investigation of Teltronics and its securities as investment counselor, fiduciary, trustee or adviser to Domaco Fund and certain other purported members of the alleged class Domaco Fund seeks to represent.

16. On or about May 17, 1973, Teltronics, on the recommendation and advice of Shaskan and J. Buchman, repurchased 11,750 shares of its stock at a price of \$8-1/2 per share for an aggregate purchase price of \$99,875. Thereafter, on or about May 24, 1973, Teltronics received through the mails from Shaskan a written confirmation of its purchase. Subsequently, on or about July 20, 1973, Shaskan delivered to Teltronics in "street name" 11,750 shares of its common stock.

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17. Upon information and belief, sometime prior to May 17, 1973, Shaskan, M. Buchman, J. Buchman, and Bartels knew or received certain material adverse information, not known to the public (including Teltronics), concerning the trading market for Teltronics' common stock. Specifically, they learned that Shaskan, Teltronics' prime market maker, was in deep financial trouble and that the NYSE was threatening to suspend its membership because of those difficulties; that if Shaskan was suspended, it could no longer trade or make a market in Teltronics' common stock; and that the market price for Teltronics' common stock would decline precipitously. Such information is hereinafter referred to as the "inside information".

18. Upon information and belief, in connection with the sale of the Teltronics' common stock by Shaskan to Teltronics, Shaskan and J. Buchman failed to disclose to Teltronics the inside information.

19. Upon information and belief, sometime prior to May 17, 1973, Bartels, in accordance with his previous assurances and guarantees as set forth in paragraph "14" hereof, disclosed the inside information to Polak, but not to the public (including Teltronics).

20. Thereafter, upon information and belief, Polak and/or Equity Interest sold for their clients Teltronics' common stock without disclosing to the public (including Teltronics) the inside information.

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21. Upon information and belief, Teltronics purchased said common stock from Shaskan (including shares sold for the accounts of the clients of Polak and/or Equity Interest) without knowledge of the inside information. Teltronics believed that Shaskan and J. Buchman had not withheld any inside information and, in reliance on that belief, was solicited, induced and caused by Shaskan and J. Buchman to purchase Teltronics' common stock as heretofore alleged and would not have purchased said stock had it been informed of the inside information.

22. Upon information and belief, the NYSE, on or about June 20, 1973, suspended Shaskan's membership therein for failure to comply with the NYSE's net capital rule; and on or about July 11, 1973, as a result of an action commenced by the SEC, Shaskan was permanently enjoined by this Court from further violation of the SEC's net capital rule. Thereupon Shaskan on or about June 20, 1973, ceased doing business as a brokerage firm and as a market maker in Teltronics' common stock.

23. On June 19, 1973, the over-the-counter market price for Teltronics' common stock was \$8-1/2 bid and \$9-1/2 asked. On June 21, 1973, the market price for Teltronics' common stock declined to \$5 bid and \$7 asked. Thereafter, the market price for Teltronics' common stock declined precipitiously.

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24. Upon information and belief, Bartels (a) directly violated Teltronics' rights by disseminating the inside information to Polak and Equity Interest and by failing at the same time to disclose this information to the investing public, including Teltronics; and/or (b) aided and abetted the aforesaid unlawful conduct of Polak and Equity Interest.

25. Upon information and belief, Polak and Equity Interest received the inside information by means of selective disclosure from Bartels and under such circumstances that Polak and Equity Interest knew or had reason to know that this information was not public, and thereafter Polak and Equity Interest caused his and/or its clients (including limited partners of Domaco Fund and certain members of the class on whose behalf this action was purportedly commenced) to effect sales of Teltronics common stock on the basis of such inside information and selective disclosures prior to its public dissemination.

26. Upon information and belief, Shaskan and Bartels participated with Polak and Equity Interest in connection with the unlawful activities described above and also aided and abetted such activities. Upon information and belief, Shaskan and Bartels knew or had reason to know that the inside information would be used by Polak and Equity Interest to cause his and/or its clients to effect

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securities transactions on the basis of such inside information and selective disclosures prior to its public dissemination.

27. Upon information and belief, Domaco Fund participated with Polak and Equity Interest in connection with the unlawful activities described above and also aided and abetted such activities.

28. Shaskan controlled Bartels, M. Buchman and J. Buchman controlled Shaskan, and Polak controlled Equity Interest within the meaning of Section 20(a) of the Securities Exchange Act of 1934 [15 U.S.C. §78t].

29. Teltronics tendered the return of the 11,750 shares of its common stock to Shaskan by letter dated September 4, 1973. To date, Shaskan has refused to accept such tender. Teltronics has continued and hereby continues to tender the 11,750 shares of its common stock and demand rescission of said purchase and restitution of all consideration paid by it to Shaskan, together with interest thereon.

30. By reason of the unlawful acts, Teltronics to date has been damaged in the amount of \$85,187.50, representing the difference between the \$99,875 paid by Teltronics for its common stock and the current market price for 11,750 shares thereof. Such injury may increase in amount by the time judgment is entered herein.

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FIRST CLAIM FOR RELIEF BY DEFENDANTS
AGAINST DEFENDANT SHASKAN AND THIRD-
PARTY DEFENDANTS POLAK, EQUITY INTEREST,
M. BUCHMAN, J. BUCHMAN AND BARTELS

31. In the complaint herein, Domaco Fund alleges that Teltronics and certain present and former officers and directors and Shaskan made material misrepresentations and omissions in the Prospectus dated January 9, 1973. See paragraph "1" hereof.

32. Upon information and belief, Shaskan and Bartels made misrepresentations and omissions of material facts concerning Teltronics, as set forth in paragraphs "13" and "14", to Polak and Equity Interest and, based upon said misstatements and omissions, Polak and Equity Interest induced and/or caused Domaco Fund, limited partners of Domaco Fund and other purported members of the alleged class Domaco Fund seeks to represent to purchase Teltronics' stock.

33. Shaskan, M. Buchman, J. Buchman, Bartels, Polak and Equity Interest knew or should have known that the representations referred to in paragraph "32" were false and misleading and that the omissions were material.

34. If plaintiff Domaco Fund recovers judgment against defendants by reason of any of the acts, transactions or omissions alleged in the complaint herein, defendants are entitled to contribution from Shaskan, M. Buchman, J. Buchman, Bartels, Polak and Equity Interest.

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SECOND CLAIM FOR RELIEF BY DEFENDANTS
AGAINST DEFENDANT SHASKAN AND THIRD-
PARTY DEFENDANTS POLAK, EQUITY INTEREST,
M. BUCHMAN, J. BUCHMAN AND BARTELS

35. The allegations contained in paragraphs "1" through "33" hereof are repeated and realleged with the same force and effect as though fully set forth herein.

36. Upon information and belief, Shaskan and Bartels gave certain improper and unlawful assurances and guarantees to Polak and Equity Interest as set forth in paragraph "14" hereof, and based thereon Shaskan, Bartels, Polak and Equity Interest induced and/or caused Domaco Fund, limited partners of Domaco Fund and other purported members of the alleged class Domaco Fund seeks to represent to purchase Teltronics' common stock.

37. Accordingly, if Domaco Fund recovers judgment against defendants by reason of any of the acts, transactions or omissions alleged in the complaint herein, defendants are entitled to contribution from Shaskan, M. Buchman, J. Buchman, Bartels, Polak and Equity Interest.

THIRD CLAIM FOR RELIEF BY DEFENDANTS
AGAINST DEFENDANT SHASKAN AND THIRD-
PARTY DEFENDANTS POLAK, EQUITY INTEREST,
M. BUCHMAN, J. BUCHMAN, AND BARTELS

38. The allegations contained in paragraphs "1" through "33" hereof are repeated and realleged with the same force and effect as though fully set forth herein.

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39. Upon information and belief, Shaskan, M. Buchman, J. Buchman, Bartels, Polak and Equity Interest, prior to the effective date of the public offering and pursuant to their duties as brokers, investment advisers and/or fiduciaries to Domaco Fund, limited partners of Domaco Fund and certain other purported members of the alleged class Domaco Fund seeks to represent, undertook and made an independent investigation of Teltronics. Based upon that investigation, Shaskan, M. Buchman, J. Buchman, Bartels, Polak and Equity Interest learned all material facts concerning Teltronics including all facts concerning Teltronics now alleged to be false and misleading or omitted. Despite Shaskan's, M. Buchman's, J. Buchman's, Bartels', Polak's and Equity Interest's knowledge of the alleged facts, misleading statements and omissions, they induced and/or caused Domaco Fund, limited partners of Domaco Fund and other purported members of the alleged class Domaco Fund seeks to represent to purchase Teltronics common stock

40. Accordingly, if Domaco Fund recovers judgment against defendants by reason of any of the acts, transactions or omissions alleged in the complaint herein, defendants are entitled to contribution from Shaskan, M. Buchman, J. Buchman, Bartels, Polak and Equity Interest.

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AMENDED ANSWER, COUNTERCLAIM, CROSS-CLAIM
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FOURTH CLAIM FOR RELIEF BY DEFENDANTS
AGAINST DEFENDANT SHASKAN AND THIRD-
PARTY DEFENDANTS POLAK, EQUITY INTEREST,
M. BUCHMAN, J. BUCHMAN AND BARTELS

41. The allegations contained in paragraphs "1" through "33" and paragraph "39" hereof are repeated and realleged with the same force and effect as though fully set forth herein.

42. Upon information and belief, Shaskan, Polak, Equity Interest and Bartels made untrue statements of material facts and/or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading to Domaco Fund, limited partners of Domaco Fund, and other purported members of the alleged class Domaco Fund seeks to represent which induced or caused them to purchase Teltronics' common stock on the public offering and to sell thereafter. Such untrue statements and omissions are fully set forth in paragraphs "13", "14", "17" and "39" hereof.

43. Accordingly, if Domaco Fund recovers judgment against defendants by reason of any of the acts, transactions or omissions alleged in the complaint herein, defendants are entitled to contribution from Shaskan, M. Buchman, J. Buchman, Polak, Equity Interest and Bartels.

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AMENDED ANSWER, COUNTERCLAIM, CROSS-CLAIM
AND THIRD-PARTY COMPLAINT

FIFTH CLAIM FOR RELIEF BY TELTRONICS
AGAINST DEFENDANTS POLAK, EQUITY INTEREST,
SHASKAN, M. BUCHMAN, J. BUCHMAN,
BARTELS, AND DOMACO FUND

44. Jurisdiction of this Court is based upon Section 27 of the Securities Exchange Act of 1934 [15 U.S.C. § 78aa], as amended (the "Exchange Act"), and upon the principles of pendent jurisdiction.

45. This claim arises under Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder; this claim also arises under Section 352-c of the General Business Law of the State of New York; Section 720 of the Business Corporation Law of the State of New York and the common law of the State of New York.

46. The acts complained of herein occurred in substantial part within the Southern District of New York.

47. Teltronics repeats and realleges the allegations contained in paragraphs "1" through "12", paragraph "14", and paragraphs "16" through "30" hereof, with the same force and effect as though fully set forth herein.

48. Defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that in connection with the sale of the aforesaid Teltronics' common stock to Teltronics by the use of means or instrumentalities of interstate commerce and by use of the mails, di-

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rectly or indirectly, they (a) employed a device, scheme or artifice to defraud Teltronics; (b) made untrue statements of material facts and/or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices and courses of business which operated as a fraud or deceit upon Teltronics.

SIXTH CLAIM FOR RELIEF BY TELTRONICS
AGAINST DEFENDANTS POLAK, EQUITY INTEREST,
SHASKAN, M. BUCHMAN, J. BUCHMAN,
BARTELS AND DOMACO FUND

49. Teltronics repeats and realleges the allegations contained in paragraphs "1" through "12", paragraph "14", paragraphs "16" through "30" and paragraphs "44" through "46" hereof, with the same force and effect as though fully set forth herein.

50. Defendants violated Section 352-c of the General Business Law of the State of New York by (a) using and employing fraud, deception, concealment, suppression and false pretense to induce and/or promote the sale, negotiation or purchase of securities within the State of New York; and (b) by engaging in an artifice, agreement, device or scheme to obtain money from Teltronics in connection with the sale and purchase of a security in New York.

EXHIBIT A TO BLOCK AFFIDAVIT - PROPOSED
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SEVENTH CLAIM FOR RELIEF BY TELTRONICS
AGAINST DEFENDANTS POLAK, EQUITY INTEREST,
SHASKAN, M. BUCHMAN, J. BUCHMAN,
BARTELS AND DOMACO FUND

51. Teltronics repeats and realleges the allegations contained in paragraphs "1" through "12", paragraph "14", paragraphs "16" through "30" and paragraphs "44" through "46" hereof, with the same force and effect as though fully set forth herein.

53. The aforesaid untrue statements and omissions were intentionally, knowingly, recklessly and fraudently made by the defendants for the purpose of soliciting, inducing and causing Teltronics to purchase the aforesaid shares of its common stock and, in reliance upon defendants' statements as being true and complete in all respects, Teltronics was induced to purchase the aforesaid common stock to its detriment.

EIGHTH CLAIM FOR RELIEF BY TELTRONICS
AGAINST DEFENDANTS POLAK, EQUITY INTEREST,
SHASKAN, M. BUCHMAN, J. BUCHMAN,
BARTELS AND DOMACO FUND

55. Teltronics repeats and realleges the allegations contained in paragraphs "1" through "12", paragraph "14", paragraphs "16" through "30" and paragraphs "44" through "46" with the same force and effect as though fully set forth herein.

57. This cause of action arises pursuant to
Section 720 of the Business Corporation Law of the State of

EXHIBIT A TO BLOCK AFFIDAVIT - PROPOSED
AMENDED ANSWER, COUNTERCLAIM, CROSS-CLAIM
AND THIRD-PARTY COMPLAINT

New York and the Common Law of the State of New York in that defendants during the relevant period breached their fiduciary duties and obligations to Teltronics by misappropriating an asset of Teltronics to their own use and for their own benefit to wit, all defendants received inside information concerning the value of Teltronics' common stock and utilized that information for their own benefit, the benefit of others and to the detriment of Teltronics.

WHEREFORE, (1) defendants Teltronics Services, Inc., Edward M. Beagan, David A. LaConte, Gerard F. Hug and Gilbert Monick demand judgment as follows:

(a) judgment against plaintiff Domaco Venture Capital Fund dismissing the complaint herein;

(b) if plaintiff recovers judgment against defendants on any of the claims for relief alleged in the complaint, then third-party defendants and defendant Shaskan are liable over to third-party plaintiffs and defendants for their proportionate amount of any such liability;

(c) awarding defendants their costs, and disbursements of this action; and

(2) Teltronics Services, Inc. demands judgment against counterclaim and cross-claim defendants as follows:

(a) rescinding the purchase of Teltronics' common stock and compelling counterclaim and cross-claim defendants to repay to Teltronics all consideration paid by it therefor, together with interest thereon from the time paid to the day of judgment; or, in the alternative,

EXHIBIT A TO BLOCK AFFIDAVIT - PROPOSED
AMENDED ANSWER, COUNTERCLAIM, CROSS-CLAIM
AND THIRD-PARTY COMPLAINT

(b) awarding Teltronics damages in the amount equal to the difference between \$99,875, Teltronics' cost for the purchase of Teltronics' common stock and the value thereof at the time of judgment together with interest thereon as aforesaid; and

(c) an accounting of profits or savings resulting from sales of Teltronics' common stock by clients of Polak and/or Equity Interest and by any other party who received from any of the defendants material inside information regarding Teltronics' common stock; and

(d) awarding Teltronics punitive damages in the amount of \$1,000,000; and

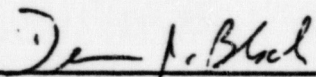
(e) awarding Teltronics its costs, and disbursements of this action; and

(f) such other and further relief as this Court may deem just and proper.

Dated: New York, New York
May 22, 1975

WEIL, GOTSHAL & MANGES
Attorneys for Defendants
Teltronics Services, Inc.,
Edward M. Beagan, David A. LaConte,
Gerard F. Hug and Gilbert Monick
767 Fifth Avenue
New York, New York 10022
(212) 758-7800

By


A Member of the Firm

PLAINTIFF'S NOTICE OF MOTION PURSUANT TO RULES
12(f), 56 and 42(b) OF THE FED.R.CIV.P.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOMACO VENTURE CAPITAL FUND,
a limited partnership,

Plaintiff,

-against-

TELTRONICS SERVICES, INC., SHASKAN &
CO., INC., CLAUDE C. CONTI, EDWARD M.
BEAGAN, THOMAS R. RAMSEY, DAVID A.
LaCONTE, GERARD F. HUG, GILBERT MONICK
and JEFFREY A. MOROSS,

Defendants.

74 Civ. 3014
(J.M.C.)

NOTICE OF MOTION

S I R S:

PLEASE TAKE NOTICE that upon the annexed affidavit of Jack Polak, sworn to June 12, 1975, the exhibits thereto, the affidavit of Stanley Bartels, sworn to the 13th day of June, 1975, plaintiff's statement pursuant to Rule 9(g) of the General Rules of this court and upon all papers and prior proceedings had herein, the undersigned will move this court on ^{July} ~~June~~ 3, 1975 in Room 1001, United States Court House, Foley Square, New York, New York at 10:00 A.M., or as soon thereafter as counsel may be heard for an order:

(a) Pursuant to Rule 12(f) of Federal Rules of Civil Procedure striking certain portions of the amended answer herein, as sham and frivolous;

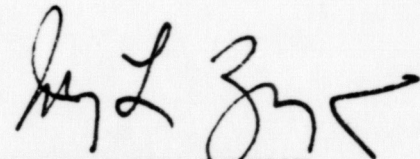
(b) alternatively granting the plaintiff and third party defendants, Jack Polak and Equity Interest, Inc. summary judgment dismissing the first through sixth claims for relief in the amended answer;

PLAINTIFF'S NOTICE OF MOTION PURSUANT TO RULES
12(f), 56 and 42(b) OF THE FED.R.CIV.P.

(c) alternatively severing the first through
fourth claims in the amended answer from this action
pursuant to Rule 42(b) of the Federal Rules of Civil
Procedure;

(d) granting plaintiff such other and further
relief as is just.

Dated: New York, N.Y.
June , 1975



BERMAN AND ZIVYAK
Attorneys for Plaintiff
Office & P.O. Address
450 Park Avenue
New York, N.Y. 10022

593-1570

TO: WEIL, GOTSHAL & MANGES
Attorneys for Defendants
Teltronics Services, Inc.,
Beagan, LaConte, Hug &
Monick
767 Fifth Avenue
New York, N.Y. 10022

SHASKAN & CO., INC.
16 Beaver Street
New York, N.Y. 10004

PLAINTIFF'S STATEMENT PURSUANT TO GENERAL RULE 9(g)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
:
DOMACO VENTURE CAPITAL FUND,
a limited partnership,

Plaintiff,

-against-

TELTRONICS SERVICES, INC., SHASKAN &
CO., INC., CLAUDE C. CONTI, EDWARD M.
BEAGAN, THOMAS R. RAMSEY, DAVID A.
LaCONTE, GERARD F. HUG, GILBERT MONICK :
and JEFFREY A. MOROSS,

Defendants. :

74 Civ. 3014
: (J.M.C.)

PLAINTIFF'S STATEMENT
PURSUANT TO GENERAL RULE 9(g)
:

-----X
Pursuant to Rule 9(g) of General Rules of this
court, plaintiff states that the following facts are un-
disputed.

1. Domaco Venture Capital Fund ("Domaco") is
a limited partnership and a closed end investment company; its
sole general partner is Domaco Company. Jack Polak is a general
partner of Domaco Company.

2. Domaco purchased 500 shares of the common stock
of Teltronics Services, Inc. upon the public offering thereof,
on January 9, 1973 at an aggregate price of \$5,000 and sold
such shares on November 30, 1973 at a total loss of \$3,818.95.

3. Jack Polak ("Polak") is an investment advisor
duly registered as such pursuant to the Investment Advisors Act
of 1940, as is Equity Interest, Inc., of which Mr. Polak is a
principal shareholder.

4. In the course of their activities as investment
advisors, Polak and Equity caused accounts they advised (in-
cluding Domaco) to purchase an aggregate of 10,800 shares

PLAINTIFF'S STATEMENT PURSUANT TO GENERAL RULE 9(g) of Teltronics upon the original offering thereof, on January 9, 1973. Such purchases were effected through Shaskan & Co. Inc. ("Shaskan") which acted as lead underwriter for the public offering of Teltronics' stock.

5. The name of each such purchaser, the date and amount of his purchase, the date and price of his sale, and his profit or (loss) is set forth as Exhibit A to Polak's moving affidavit.

6. Shaskan from the date of the offering of Teltronics stock to June 20, 1973 acted as principal market maker of Teltronics stock.

7. Shaskan, on June 20, 1973, closed its doors and ceased operating as a broker/dealer in securities.

8. At no time prior to June 20, 1973 did Jack Polak, Equity Interest, Domaco or anyone acting on their behalfs receive knowledge that Shaskan was in financial difficulty or was in imminent danger of ceasing to operate as a broker/dealer.

9. At no time did Jack Polak, Equity Interest, Domaco or anyone acting on their behalfs act on any "inside information" concerning Teltronics, Shaskan or transactions in Teltronics stock.

10. At no time did Shaskan make any "special arrangement" with Jack Polak, Equity Interest or Domaco or anyone associated with them concerning Teltronics stock.

Dated: New York, N.Y.
June , 1975.

BERMAN AND ZIVYAK
Attorneys for Plaintiff
Office & P.O. Address
450 Park Avenue
New York, N.Y. 10022

212-593-1570

AFFIDAVIT OF JACK POLAK, FOR PLAINTIFF, IN SUPPORT
OF MOTION PURSUANT TO RULES 12(f), 56 and 42(b)
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DOMACO VENTURE CAPITAL FUND,
a limited partnership,

Plaintiff,

:
:
: 74 Civ. 3014
(J. M. C.)

-against-

: AFFIDAVIT IN SUPPORT
OF MOTION

:
TELTRONICS SERVICES, INC., SHASKAN &
CO., INC., CLAUDE C. CONTI, EDWARD M.
BEAGAN, THOMAS R. RAMSEY, DAVID A.
LaCONTE, GERARD F. HUG, GILBERT MONICK
and JEFFREY A. MOROSS,

:
Defendants.
-----X

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

JACK POLAK, being duly sworn, deposes and says:

1. I am the general partner of Domaco Company, a limited partnership, which in turn is the sole general partner of Domaco Venture Capital Fund, the plaintiff in the above captioned action. I am an investment advisor and I am President of Equity Interest, Inc. which is a registered investment advisor registered with the Securities and Exchange Commission. This affidavit is submitted in support of the plaintiff's motion:

(a) Pursuant to Rule 12(f) Federal Rules of Civil Procedure seeking dismissal of certain of the allegations of the amended answer on the grounds that same are sham and frivolous;

(b) alternatively, pursuant to Rule 56 Federal Rules of Civil Procedure for summary judgment dismissing the counterclaims, cross-claims and third party claims, respectively against myself, Domaco Venture Capital Fund and Equity Interest, Inc.;

AFFIDAVIT OF JACK POLAK, FOR PLAINTIFF, IN SUPPORT
OF MOTION PURSUANT TO RULES 12(f), 56 and 42(b)

(c) alternatively, and in the event that the dismissal motions are denied, pursuant to Rule 42(b) Federal Rules of Civil Procedure for a severance of the claims asserted in the proposed amended pleading from the main action.

2. My attorneys have advised me that due to the liberality of Rule 15 of the Federal Rules of Civil Procedure, the motion of the defendants for leave to file an amended answer containing counterclaims, cross-claims and third party claims will, in all likelihood, be granted. The present motions are being made upon that assumption.

3. I ask that the court bear one thing in mind as it reviews the issues raised by the proposed amended pleading and by this motion. This action was brought as a class action on behalf of all prospectus purchasers of the common stock of Teltronics Services, Inc. ('Teltronics'), pursuant to a prospectus dated January 9, 1973. A motion to designate Domaco as class representative was timely made pursuant to Federal Rule 23 and Local Rule 11A. That motion has now been pending for nearly one year. In all that time, through maneuvering and dilatory tactics by the defendants, that motion has not even been answered with papers on behalf of the defendants. The defendants' present motion is yet another step in their attempt to prevent this action from becoming a class action. The proposed amended pleading is nothing more than an attempt to obfuscate the relatively clear legal issues raised by the complaint in this action. As will be demonstrated below, and in the accompanying papers, there is not a single kernel of factual merit to the claims raised by the defendants in their proposed amended pleading. A fair reading of the proposed amended pleading against the true

AFFIDAVIT OF JACK POLAK, FOR PLAINTIFF, IN SUPPORT
OF MOTION PURSUANT TO RULES 12(f), 56 and 42(b)

facts demonstrate that this is not good faith pleading.

If my good name is besmirched and the issues in this case sufficiently beclouded, the defendants reason that they will not have to defend a class action.

4. The complaint in this action charges violations of the Federal securities laws in the dissemination of a prospectus on January 10, 1973. The complaint alleges various omissions to state material facts and misstatements of material facts. The claims asserted in the complaint are limited to the prospectus document and no claim is made on behalf of the class arising out of facts extrinsic to that prospectus.

5. The defendants, solely for the purpose of defeating the pending Rule 23 motion have conjured up a rather interesting set of facts. In substance, the defendants' assertions may be summarized as follows:

Shaskan & Co., Inc. which had acted as the lead underwriter in the public offering of Teltronics stock had become the principal market maker for that stock in the over-the-counter market. Mr. Stanley Bartels was a registered representative of Shaskan & Co. with whom I had done business over the years. In fact, many of the shares purchased for the accounts for which I acted as investment advisor, were purchased through Shaskan & Co. because of my relationship with Mr. Bartels.*

* Upon the initial public offering of Teltronics, accounts for which I act as advisor, purchased 10,800 shares. Mr. Bartels was the registered representative involved in that.

AFFIDAVIT OF JACK POLAK, FOR PLAINTIFF, IN SUPPORT
OF MOTION PURSUANT TO RULES 12(f) 56 and 42(h)

These latter facts are accurate. On this framework, defendants have now constructed assertions that I acted unlawfully. It is alleged that Shaskan & Co., in the Spring of 1973, was encountering financial difficulties. It is further claimed that Mr. Bartels informed me of these difficulties and because of that, I dumped Teltronics stock on the market. Unbeknownst to me, Teltronics, itself, had been a purchaser of securities during this period. As such, Teltronics now claims that I was a "tippee" of the information that Shaskan & Co. was in financial difficulty and hence, could not maintain an ordinary market in Teltronics securities. This is an out and out falsehood. The falsity of these allegations can be demonstrated beyond the shadow of any doubt by reference to the chart annexed hereto as Exhibit 'A'. Exhibit 'A' sets forth in chronological detail the sales of Teltronic stock made for accounts that I advised beginning in January of 1973. The proposed amended complaint alleges that I obtained inside information concerning the imminent demise of Shaskan & Co. "sometime prior to May 17, 1973." I ask the court to look at the facts. From the period April 10, 1973, through June 19, 1973, (the day prior to the closing of Shaskan's doors) I caused the sale of only 2,820 shares of Teltronics stock. It can be seen from the sales, that there is no pattern, there is no rush into the market place to unload and obviously no acting on inside information. After June 19, 1973, the combined holdings of Teltronic stock of my clients, and the entities in which I had an interest amounted to 6,480 shares. If I were acting on inside information, surely I would have caused the sale of the stock held by the plaintiff, Domaco in this action. However, those shares were not sold until November 30, 1973. Similarly, I would have caused the sale of the Teltronics' stock held by First General Co., a partnership

AFFIDAVIT OF JACK POLAK, FOR PLAINTIFF, IN SUPPORT
OF MOTION PURSUANT TO RULES 12(f), 56 and 42(b)

in which I hold a substantial interest. These shares were also not sold until November 30, 1973. Similarly, shares held in a trust, whose beneficiaries are members of my family, were not sold until September 13, 1974. It is for this reason that it is obvious that the claims asserted in a proposed amended answer are absolutely sham and totally frivolous.

6. I have reviewed the affidavit of Dennis J. Bloch, Esq. on behalf of the defendants. It is Mr. Bloch's sworn contention that the basis for the assertion of the proposed amended pleadings is ". . . facts learned through answers to interrogatories, the deposition of Jack Polak and as a result of information learned by defendants from other sources. . ." My deposition is on file with this Court, as are my answers to interrogatories. All of my transactions in Teltronics' stock are now also part of the court's record. There is absolutely no basis whatsoever in any of these documents which justify Mr. Bloch's sworn statement. The court's attention is also invited to the accompanying affidavit of Stanley Bartel submitted in support of this motion, which further bolsters our contention that the proposed amended pleading is proffered solely to cause confusion. When allegations are made in a pleading for purposes other than reaching the merits of a dispute among the parties, then such allegations are a sham and should be dismissed.

7. My attorneys inform me that motions for summary judgment may be granted when no material facts are in dispute. The only factual issue raised in the proposed amended answer with respect to myself, Equity Interest, Inc. and Domaco Venture Capital Fund, is whether or not we sold Teltronics' stock after ascertaining inside information concerning Shaskan & Co.'s ability to maintain orderly market in Teltronics' securities.

AFFIDAVIT OF JACK POLAK, FOR PLAINTIFF, IN SUPPORT
OF MOTION PURSUANT TO RULES 12(f), 56 and 42(b)

Based upon the indisputable facts, reasonable men can not differ. The pattern of our trading of Teltronics' stock demonstrates that we did not act on inside information. This affidavit and the affidavit of Stanley Bartels demonstrates that not only did we not act on any inside information, we did not possess any inside information. Under such circumstances, and assuming that this court permits the interposing of the proposed amended answer, summary judgment should be granted in my favor, in the favor of Equity Interest, Inc. and in favor of Domaco Venture Capital Fund dismissing the claims against us.

8. Assuming that a motion to dismiss is not granted in this case, we move, pursuant to Federal Rule 42(b) for a severance of the various counterclaims, cross-claims and third party claims from the main action. As noted above, these collateral claims do not share any common questions of fact or law with the main action. Rule 42(b) provides that severance is appropriate in order to further convenience, to avoid prejudice, or to further expedition and economy. We are confident that the Domaco Venture Capital Fund will be found to be a proper class representative and that it will therefore, not only represent its own interests, but the interests of many other investors in Teltronics. It is therefore obviously in the interests both of convenience and the avoidance of prejudice to grant such an order. The class should not be burdened with an unnecessarily lengthy trial; nor should the interests of absent class members be jeopardized by defendants' attempt to taint my reputation and honesty.

AFFIDAVIT OF JACK POLAK, FOR PLAINTIFF, IN SUPPORT
OF MOTION PURSUANT TO RULES 12(f), 56 and 42(b)

9. Under those circumstances and especially in
light of the tenuous nature of the claims asserted against
the plaintiff and against myself, it is certainly in the
interest of justice to sever those collateral claims from
the main action.

Sworn to before me this

day of 1975.

JACK POLAK

EXHIBIT A TO POLAR AFFIDAVIT - CHART OF SALES
OF THERMOC STOCK MADE FOR ACCOUNTS ADVISED

DATE	NO. OF SHARES	PRICE	SALE PRICE	PURCHASER	DATE	NO. OF SHARES	PRICE	COST	Long Term Gain
January 1, 1973	500	9 3/4	\$ 4776.75	Juan Metzger	1/1/73	500	10 1/2	5337.50	(560.75)
"	500	9 3/4	4783.12	Bruce Rusow	1/1/73	500	10 1/2	5337.50	(554.38)
February 6, 1973	150	9 1/2	1421.25	Judith Morozahl	1/9/73	150	10	1500.	(78.75)
March 1, 1973	100	11 1/2	1119.30	"	1/1/73	100	10	1000.	119.30
" 6, 1973	150	11	1644.37	P.G. LoBasso	1/9/73	150	10	1500.	144.37
" 21, 1973	1000	9 1/2	9475.	Willems & Cie	1/1/73	1000	10	10,000.	(525.)
April 10, 1973	150	9 1/4	1362.87	ROGER LAMM	1/1/73	150	10	1500	(137.13)
" "	150	9 1/4	1362.87	Michael Flanagan	1/1/73	150	10	1500	(137.13)
May 11, 1973	500	9 1/4	4556.25	Joselyne Wolf 'S'	1/1/73	500	10	5000	(443.75)
June 16, 1973	120	9 1/4	1088.55	Max Rothschild	1/1/73	120	10	1200	(111.45)
July 27, 1973	60	9	526.10	St. J. Greenwell	1/1/73	60	10	600	(73.90)
" "	100	9	897.50	Cecil Whitkings	1/1/73	100	10	1000	(102.50)
" "	100	9	881.50	Hugo Kuhn	1/1/73	100	10	1000	(118.50)
" "	100	9	881.50	Steven Lamm	1/1/73	100	10	1000	(118.50)
" "	100	9	881.50	Wolfe Model	1/1/73	100	10	1000	(118.50)
" "	140	9	1236.40	J. Axel Smith	1/1/73	140	10	1400	(163.60)
Aug 17, 1973	60	7 3/4	461.20	Andra Lazarus	1/1/73	60	10	600	(138.80)
" "	40	7 1/4	304.	Charles Lazarus	1/1/73	40	10	400	(96.00)
" "	30	7 3/4	231.55	Joseph Lazarus	1/1/73	30	10	300	(68.45)
" "	90	7 3/4	675.25	Arnold Rudel	1/1/73	90	10	900	(224.75)

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A-72

TIME DATE	No. of Shares	Price	TOTAL SALE	NAME OF PURCHASER	Price of Share	No. of Shares	Price	TOTAL COST	Long Term Stock No.
May 17, 1973	40	7 3/4	309.	A.S. Bromstein	7 1/2	40	10	400	(91)
" "	50	7 3/4	386.24	Hbb Inv. Club	7 1/2	50	10	500	(113)
May 21, 1973	60	9 3/4	583.50	H.C. Stadtmayer	7 1/2	60	10	600	(16.5)
" "	60	9 3/4	584.02	H.S. Weiner	7 1/2	60	10	600	(15.9)
June 5, 1973	100	9 1/4	906.25	J. Wolf / H. Wolf	7 1/2	400	10	4000	(93.7)
" 7, 1973	300	8 3/4	2570.25	" "	7 1/2	300	10	3000	(427.7)
" 7 "	100	8 3/4	856.75	M. Frankfort	7 1/2	100	10	1000	(143.2)
" 5 "	100	9 1/4	906.25	R. Preiss	7 1/2	200 (a)	10	2000	(93.7)
" 19 "	70	8 1/4	565.69	Margot Marx	7 1/2	70	10	700	(134.1)
" 19 "	100	8 1/4	807.25	S.A. Heggling	7 1/2	100	10	1000	(172.7)
" 19 "	130	8 3/8	1062.92	St. LUTZIN	7 1/2	200	10	2000	(377)
" 19 "	100	8 3/4	820.49	Frank LOTHAR	7 1/2	100	10	1000	(177)
October 4, 1973	100	4 1/2	437.25	Frederika Ainholt	7 1/2	100	10	1000	(512.75)
November 24, 1973	100	2 1/2	240.75	Judith Carlow	7 1/2	100	10	1000	(159.25)
" 26 "	100	2 1/2	240.75	Rose Preiss	7 1/2	(a)			(159.25)
" 20 "	100	2 7/8	272.88	Ben Kuitman	7 1/2	100	10	1000	(177.1)
November 30, 1973	500	2 1/2	1181.05	Domoco Van Lap	7 1/2	500	10	5000	(311.95)
December 30, 1973	300	2 1/2	211.76 1615.25	Fier General Co.	7 1/2	300	10	3000	(748.24) (534.75)
January 29, 1974	100	3	289.75	H.R. Herzog	7 1/2	100	10	1000	(70.25)
April 4, 1974	100	2 3/4	250.56	Son + Pius. Paul J. J.	7 1/2	100	10	1000	(777)
May 28, 1974	200	1 5/8	322.50	S.H. Goldenberg	7 1/2	200	10	2000	(1677.5)
May 15, 1974	500	2 5/8	1225.62	Good Inv. Co.	7 1/2	500	10	5000	(3734.35)
" 22, 1974	100	2 7/8	277	Est. of Jay Feist	7 1/2	100	10	277	(721)

EXHIBIT A TO POLAR AFFIDAVIT - CHART OF SALES
OF TELETRONIC STOCK MADE FOR ACCOUNTS ADVISED
BY POLAR

TRADE DATE	NO. OF SHARES	PRICE	SALE	NAME OF PURCHASER	DATE	NO. OF SHARES	PRICE	TOTAL COST	CUMULATIVE COST
Aug 22, 1974	100	27 1/4	277.62	H. Vanburen	7/13	100	10	1000	(322.35)
Sept. 13, 1974	200	27 1/8	215.50 216.12	M. J. J. J. J.	7/13	200	10	2000	(528.35)
27, 1974	200	2	283.75	Gene Row	7/13	500 (6)	10	5000	(1028.35)
13, 1974	200	2 1/4	431.	Robert J. J. J. J. Paul S. J. J. J.	7/13	200	10	2000	(1228.35)
				Julius Baldy	7/13	50	10	500	
				David Goodman	7/13	500	10	5000	
				M. J. J. J. J.	7/13	500	10	5000	
				Nathan Smith	7/13	500	10	5000	
				Elizabeth J. J. J.	7/13	200	10	2000	
				Charles J. J. J.	7/13	50	10	500	

(b) Mr. Row is still long 300 shares.

EXHIBIT A TO POLAK AFFIDAVIT - CHART OF SALES
OF TELTRONIC STOCK MADE FOR ACCOUNTS ADVISED
BY POLAK

AFFIDAVIT OF STANLEY BARTELS, FOR PLAINTIFF, IN
SUPPORT OF MOTION PURSUANT TO RULES 12(f), 56
and 42(b)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
:
DOMACO VENTURE CAPITAL FUND,
a limited partnership, : 74 Civ. 3014
 : (J.M.C.)
Plaintiff, :
 : AFFIDAVIT IN SUPPORT
-against- : OF MOTIONS
TELTRONICS SERVICES, INC., SHASKAN & :
CO., INC., CLAUDE C. CONTI, EDWARD M. :
BEAGAN, THOMAS R. RAMSEY, DAVID A. :
LaCONTE, GERARD F. HUG, GILBERT MONICK :
and JEFFREY A. MOROSS, :
Defendants. :
-----x

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

STANLEY BARTELS, being duly sworn, deposes and says:

1. I am presently employed as a registered representative by L.M. Rosenthal & Co., a member of the New York Stock Exchange. Previously, and during the period relevant to this lawsuit, I was a registered representative with the now defunct brokerage house of Shaskan & Co., Inc.

2. I have been asked by Domaco Venture Capital Fund and Mr. Jack Polak to submit this affidavit in support of motions made on their behalves. I have read the proposed amended answer, counter-claim, cross-claim and third party complaint submitted by the defendants in the above action, and I would like to take this opportunity to advise the court of the true facts.

3. The only truthful portion of the defendants' moving papers concerning me and my relationship with Mr. Polak is that during the period that I was associated with Shaskan & Co., I did execute many transactions on Mr. Polak's behalf and on behalf of the various accounts he advised. Indeed, I believe I was the only registered

AFFIDAVIT OF STANLEY BARTELS, FOR PLAINTIFF, IN
SUPPORT OF MOTION PURSUANT TO RULES 12(f), 56
and 42(b)

representative at Shaskan & Co. who had such a relationship with Mr. Polak.

4. I will state categorically that at no time did I ever advise Mr. Polak or any one associated with him, that Shaskan & Co., which during the relevant period, was the major market maker in Teltronics stock that Shaskan was in shaky financial condition or that it was on the verge of going out of business or anything grossly resembling such a statement.

5. Prior to that time I had never informed Mr. Polak of the imminent demise of Shaskan & Co. because obviously, I never expected it to happen.

6. During the years I had a business relationship with Mr. Polak, he invariably gave the accounts he advised individual treatment. He did not for instance, buy or sell a given stock for a large number of accounts on the same day. His activities with respect to Teltronics followed his usual pattern. As a review of Exhibit "A" to Mr. Polak's affidavit demonstrates, there is no pattern for panic selling or selling on inside information.

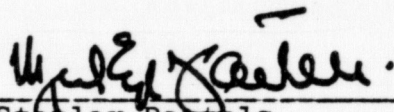
7. The proposed amended answer alleges that sometime prior to May 17, 1973, I gave Mr. Polak inside information. If this was the fact, then he would have acted on that inside information. Exhibit "A" demonstrates the exact opposite. Between May 17, 1973 and June 19, 1973, the last day Shaskan was open for business. Mr. Polak caused the sale of 1,630 shares of stock. His clients, as well as entities in which he himself had an interest, still owned 5,530 shares. In fact, as of this day, 2,130 shares of Teltronics are still owned by accounts advised by Mr. Polak

AFFIDAVIT OF STANLEY BARTELS, FOR PLAINTIFF, IN
SUPPORT OF MOTION PURSUANT TO RULES 12(f), 55
and 42(b)

out of an original 10,000 shares purchased. Certainly, no reasonable man could believe that these transactions represent the activities of a man, who knew the stock would go down and was trading on inside information.

8. I would also state that at no time did Mr. Polak know that Teltronics itself was a purchaser of its own shares during the Spring of 1973. I subsequently learned that Shaskan & Co. had a block of Teltronics stock in inventory, which it had accumulated during its function as market maker in Teltronics stock and that Teltronics bought that block. This was an arrangement that, to the best of my knowledge, was not preplanned in any way and Jack Polak had received no knowledge from me that the sale was going to take place or in fact, did take place.

Sworn to before me this
day of , 1975.



Stanley Bartels

AFFIDAVIT OF DENNIS J. BLOCK, ESQ., FOR DEFENDANTS
TELTRONICS, BEAGAN, LA CONTE, HUG AND MONICK, IN
OPPOSITION TO PLAINTIFF'S MOTION PURSUANT TO RULES
12(f), 56 and 42(b)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

DOMACO VENTURE CAPITAL FUND, :

Plaintiff, :

74 Civ. 3014 (J.M.C.)

-against- :

AFFIDAVIT

TELTRONICS SERVICES, INC., et al., :

Defendants. :

-----x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

DENNIS J. BLOCK, being duly sworn, deposes and says:

1. I am a member of the firm of Weil, Gotshal & Manges, attorneys for defendants Teltronics Services, Inc., Edward M. Beagan, David A. LaConte, Gerard F. Hug and Gilbert Monick (the "Teltronics defendants"). I submit this affidavit in opposition to plaintiff's, Jack Polak's and Equity Interest, Inc's (collectively referred to as "plaintiff") motion to strike, for summary judgment and to sever claims raised by the Teltronics defendants in their proposed amended answer. I have personal knowledge of the facts set forth herein.

2. By motion dated May 22, 1975, the Teltronics defendants sought leave to amend their answer to add certain counterclaims, cross-claims and third-party claims. Essentially, the proposed amended answer raises three distinct categories of claims. First, the Teltronics defendants allege that they are

AFFIDAVIT OF DENNIS J. BLOCK, ESQ., FOR DEFENDANTS
TELTRONICS, BEAGAN, LA CONTE, HUG AND MONICK, IN
OPPOSITION TO PLAINTIFF'S MOTION PURSUANT TO RULES
12(f), 56 and 42(b)

entitled to contribution under the federal securities laws from Shaskan & Co., Inc. ("Shaskan") and certain persons associated with that firm and from Jack Polak and certain entities he controls. The substance of the contribution claims is that Stanley Bartels, one of the persons associated with Shaskan, is alleged to have made certain representations outside of the Prospectus and is alleged to have assured and/or guaranteed Polak that his clients would not suffer any monetary loss as a result of any depreciation in the market price of Teltronics stock. Based upon such improper assurances, guarantees and representations outside the Prospectus and despite Polak's awareness of all of the facts concerning Teltronics, including those now claimed to have been misrepresented in the Prospectus, Polak induced and/or caused plaintiff and approximately 49 other members of the purported class to purchase Teltronics stock. Secondly, Teltronics in the proposed amended answer alleges that the Shaskan parties, including certain of Polak's clients, sold or caused the sale of Teltronics stock to Teltronics while in possession of material non-public information affecting the market price of Teltronics stock. Thirdly, Teltronics alleges that Polak and the entities he controls, including plaintiff and the Shaskan parties, breached their fiduciary duty to Teltronics by virtue of their sale of Teltronics stock while in the possession of certain inside information concerning the value of Teltronics stock.

3. Plaintiff and the proposed third-party defendants have apparently determined not to oppose the motion to amend;

AFFIDAVIT OF DENNIS J. BLOCK, ESQ., FOR DEFENDANTS
TELTRONICS, BEAGAN, LA CONTE, HUG AND MONICK, IN
OPPOSITION TO PLAINTIFF'S MOTION PURSUANT TO RULES
12(f), 56 and 42(b)

rather, by the instant motion, they seek judgment on the merits of the claims raised by the Teltronics defendants. Plaintiff and the third-party defendants seek this substantive relief despite the fact that there has been no discovery on the merits of this case to date and that the little discovery had herein on the class action issues reveals significant questions of fact concerning the potential liability of Polak and the other counter-claim, cross-claim and third-party defendants. Obviously, any motion directed to the merits of the claims set forth in the proposed amended answer is, at last, premature at this early stage of this litigation.

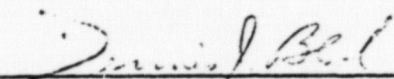
4. Plaintiff's motion papers claim that the Teltronics defendants' motion to amend represents nothing more than an attempt to delay the resolution of plaintiff's class action motion. The falseness of this claim is conclusively demonstrated by the simple fact that, simultaneously herewith, we are submitting our papers in opposition to the class action motion. Indeed, we request the Court to consider all the pending motions in this case together.

5. To the extent there has been any delay in the class action determination, that delay is attributable to plaintiff's unwillingness to comply with this Court's Orders allowing discovery on the issue of the propriety of this action proceeding as a class action. As set forth in defendants' Memorandum in opposition to the class action motion, the limited discovery

AFFIDAVIT OF DENNIS J. BLOCK, ESQ., FOR DEFENDANTS
TELTRONICS, BEAGAN, LA CONTE, HUG AND MONICK, IN
OPPOSITION TO PLAINTIFF'S MOTION PURSUANT TO RULES
12(f), 56 and 42(b)

demonstrates that this action should not be allowed to proceed
as a class action.

6. Defendants' Memorandum in Opposition to plaintiff's
motion to strike, etc. refers to the deposition transcripts of
Jack Polak and to an exhibit to plaintiff's responses to inter-
rogatories. For the Court's convenience, the transcripts and
the exhibit are annexed hereto as Exhibit "A" and "B", respectively.


Dennis J. Block

Sworn to before me
this 3rd day of July, 1975.

CAPT. D. BELLONS
Notary Public, State of New York
No. 24-5254381
Qualified in Kings County
Commission Expires March 31, 1976

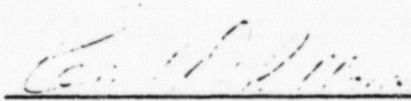

Notary Public

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----X
DAMACO VENTURE CAPITAL FUND,
a Limited Partnership,

Plaintiff,

-against-

TELTRONICS SERVICES, INC.,
SHASKAN & CO., INC., CLAUDE C.
CONTI, EDWARD M. BEAGAN, THOMAS
R. RAMSEY, DAVID A. LA CONTE,
GERARD F. HUG, GILBERT MONICK
and JEFFREY A. MOROSS,

Defendants. :
-----X

:
:
:
74 CIV 3014
(JMC)

Deposition of DAMACO VENTURE CAPITAL
FUND by JACK POLAK, taken by Defendants, at the
offices of Weil Gotshal & Manges, Esqs., 767
Fifth Avenue, New York, New York, on December
24, 1974, at 10:15 a.m., before Myron Geist,
a Shorthand Reporter and Notary Public in the
State of New York.

Commerce Reporting Company, Inc.
Forty One East Forty Second Street
New York, New York 10017
CERTIFIED SHORTHAND REPORTERS (202) 277-7900 A COMPLETE REPORTING SERVICE SINCE 1935

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

2

APPEARANCES:

BERMAN & ZIVYAK, ESQS.
Attorneys for plaintiff
450 Park Avenue
New York, New York 10022
BY: JEFFREY ZIVYAK, ESQ.,
of Counsel

WEIL GOTSHAL & MANGES, ESQS.
Attorneys for defendants
767 Fifth Avenue
New York, New York
BY: DENNIS J. BLOCK, ESQ.,
of Counsel

o0o

IT IS HEREBY STIPULATED AND AGREED, by
and between the attorneys for the respective
parties hereto, that all rights provided by the
CPLR, including the right to object to any question,
except as to the form, or to move to strike any
testimony at this deposition, are reserved, and,
in addition, the failure to object to any question,
or to move to strike testimony at this deposition,
shall not be a bar or waiver to make such motion
at, and is reserved for, the trial of this action.

IT IS FURTHER STIPULATED AND AGREED that
this deposition may be sworn to, by the witness
being examined, before a Notary Public other than
the Notary Public before whom this deposition was
begun, but the failure to do so, or to return the

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

3

original of this deposition to counsel, shall
not be deemed waiver of the rights provided by
Rule 3116, CPLR, and shall be controlled thereby.

IT IS FURTHER STIPULATED AND AGREED that
the filing of the original of this deposition is
waived.

o0o

J A C K P O L A K, called as a witness,
being first duly sworn by the Notary Public
(Myron Geist), and stating his residence as
195 Beech Street, Eastchester, New York 10707,
testified as follows:

EXAMINATION BY MR. BLOCK:

Q Mr. Polak, would you please state for the
record your highest level of formal education?

A I studied in Holland, in the Netherlands,
tax accounting and I am a certified Dutch tax consultant.

Subsequently, when I came to the United States,
I became an investment advisor. I am a member of the
New York Society of Security Analysts and have been an
investment advisor registered with the Securities Ex-
change Commission since 1960; first in my own name and
later under the name of Equity Interest, Inc.

Q Have you taken any formal courses here in the

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK1
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Polak

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United States?

A I took a higher accountancy diploma from
LaSalle University in Chicago.

Q When did you get your degree?

A 195 .

Q What kind of degree was that?

A Higher accountancy at the LaSalle University.

Q Do you have any college degrees from Holland?

A I would say that my education is similar to
the college education you find in this country, but
you can't just say that I have a college degree as such.
The examination for the tax consultant, to be a tax
consultant, is comparable with almost any college
degree. Any masters degree you can find in this
country.

Q But you didn't have formal education as such,
is that what you are saying?

A I did have the formal education, most surely.

Q Did you attend a university in Holland?

A No, no university.

Q Where did you get the formal education?

A Evening courses.

Q What school?

A Marcus and Verbeek in Amsterdam. Subsequently,

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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I also was a teacher of tax accounting in Holland.

3

Q When did you come to the United States?

4

A 1951.

5

6

Q Have you continuously been a resident of this country since then?

7

8

A Yes. I became a citizen of the United States in 1956.

9

10

Q Have you taken any courses in finance or business administration here in the United States?

11

12

13

14

A Besides the higher accountancy from LaSalle University, no, although I have been working as an accountant in the first years I was here with a CPA firm.

15

Q What firm was that?

16

17

A Kabot, Groothuis & Company, which doesn't exist now.

18

Q Are you a CPA?

19

A No. I am not a CPA.

20

21

Q Have you taken the courses that lead to your becoming a CPA? The examination that lead to your becoming a CPA?

22

23

24

25

A No. I switched from becoming a CPA. I was really intending when I came to this country to become a CPA, but then switched to the investment counseling

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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profession.

3

Q What is your present occupation?

4

A President of Equity Interest, Inc., investment counsellors.

5

6

Q Is that your only present occupation?

7

A I am a director of some public companies.

8

Q First tell us what Equity Interest, Inc. is.

9

A Equity Interest is an investment counseling firm who invests money for other people on a complete discretionary basis.

10

11

12

Q On a complete discretionary basis?

13

A Yes.

14

Q When was this corporation formed?

15

A If I am not mistaken, January 1969.

16

Q Who formed it?

17

A Myself and a then partner I had.

18

Q What was his name?

19

A Mr. Peter Vandepaverd.

20

Q Were there any other shareholders of Equity Interest, Inc. at the beginning?

21

22

A There was one shareholder for only three shares, my lawyer.

23

24

Q Who is that?

25

A Mr. Robert Salomon. He still has three shares

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

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out of 100 shares.

3

4

Q As of this date, are you three the only shareholders?

5

6

7

8

A No. Mr. Vandepaverd subsequently went back to Holland and my son, Anthony G. Polak, after getting his master's degree in business, joined me in Equity Interest and is now a vice president.

9

10

11

12

Q So those are the only shareholders?

A Yes.

Q Is Equity Interest registered with the Securities and Exchange Commission?

13

14

15

16

17

18

19

20

21

22

23

24

25

A Most certainly.

Q As what?

A As an investment advisor.

Q How many clients does Equity Interest service?

A About 160.

Q These clients all give you discretionary authority to execute transactions in their accounts?

A Yes.

Q Is there any minimum amount of money that is required to be put into the account before you take the account?

A The minimum used to be \$5,000. In certain rare cases I have taken less money.

A-89
EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

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2

Q Would you tell us what the total amount of

3

money is that you manage through Equity Interest?

4

A Now, a year ago, or two years ago?

5

Q Let's take today.

6

A I would have to figure it out, but I would

7

say about \$2,500,000.

8

Q One year ago what was it?

9

A I would say \$3,500,000.

10

Q And two years ago what was it?

11

A I would say \$4,500,000.

12

Q What was the highest amount of money in Equity

13

Interest, Inc. that you managed?

14

A I would say \$5,000,000.

15

Q When would that have been?

16

A 1969.

17

Q Has the decrease in the amount of money you

18

are presently managing resulted from a decrease in the

19

number of clients, or losses in the accounts of the

20

various clients?

21

A In a minor way in a decrease of the number of

22

clients. The number of clients has really not that much

23

decreased. It is much more in the value of the ac-

24

counts.

25

Q Being the market has gone down?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

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2

A Being the market, and Teltronics going

3

down from 4 to 1-1/2, or similar situations.

4

Q Have you received additional moneys from

5

your various clients because of the down market?

6

MR. ZIVYAK: I will object as to form.

7

Q Have you gone back to clients and asked them

8

to increase the capital in their accounts?

9

A Most certainly never.

10

Q So whatever they put in initially, that is

11

the capital in their account?

12

A Yes. Although, in certain cases clients

13

came with additional money to me, to which I want to add

14

that in the past year I have not taken any additional

15

money to put into the market. If at all, I put it

16

into CD's.

17

Q Is there any written agreement that exists

18

between Equity Interest, Inc. and the client?

19

MR. ZIVYAK: May I interject, Mr. Block.

20

I did send you a form.

21

MR. BLOCK: If that is the document he

22

is referring to, that's fine.

23

THE WITNESS: That is the basic document.

24

MR. ZIVYAK: I think we can short-cut

25

it.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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MR. BLOCK: Off the record.

3

(Discussion off the record.)

4

MR. BLOCK: Let's mark as Defendants'

5

Exhibit Polak 1 for identification, a form trading

6

authorization given to Jack Polak.

7

(Form trading authorization
marked Defendants' Exhibit
Polak 1 for identification,
as of this date.)

8

9

10

BY MR. BLOCK:

11

Q Mr. Polak, I show you what has been marked

12

as Defendants' Exhibit Polak 1 for identification and I

13

ask you if you can identify this document. (Hanging)

14

A Yes.

15

Q Please explain to me what it is.

16

A This is a trading authorization giving me

17

the right to buy and sell securities for the client

18

who signed the authorization.

19

Q Now, I note that that particular document

20

does not mention Equity Interest, Inc. Could you explain
why?

21

22

A Because I have found a problem that a corpora-

23

tion cannot get a trading authorization and as such

24

everybody knows that Jack Polak is president of Equity

25

Interest, and as such, the power is given to me per-

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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sonally.

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5

Q Are clients informed in writing that the authorization they are giving to Jack Polak is really an authorization for Equity Interest, Inc.?

6

7

8

A No. Equity Interest doesn't have the power. Jack Polak has the power. I am doing business as Equity Interest.

9

10

11

Q Are there any other written understandings between either yourself of Equity Interest, Inc. and the clients?

12

13

MR. ZIVYAK: Are you talking about a contract, Mr. Block?

14

15

MR. BLOCK: Written understandings of any sort. It could be a contract.

16

17

18

A I would say the understanding has been, although it has never been put in writing, that I never go on margin for any client.

19

20

21

Q Is that a written understanding?

A That is a general understanding.

Q How is that conveyed to the client?

22

23

24

25

A In my original talk with the client before opening an account, I always say that I only want discretionary accounts on the basis of no margin agreement. I said I don't want it. I don't want to take the

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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risk.

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Q According to this trading authorization, you would have the authority to purchase on margin.

5

A I doubt it.

6

That's right, I had it, but I don't use it.

7

8

Q Could you tell us how clients typically become clients of Equity Interest, Inc.?

9

10

11

12

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A First by talking with other people who have been successful with me. I have a lot of friends. Friends of friends. Relatives. I have never advertised my services, so certainly not if somebody just walks into my office it is very doubtful I would accept him as a client. This has happened once or twice and both times I refused the client. There is a quite good relationship between me and my clients. In fact, I lost in the last three years maybe 20 clients. That shows you that notwithstanding the losses my relationship with my clients has been quite good and they leave me alone. That's really what I want. On that basis, I work with my clients.

22

23

Q When a client comes to you, do you arrange to open a brokerage account for the client?

24

A Most certainly.

25

Q How is that account opened?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 13

2 A I explain to the client that if I do buying
3 and selling, the decision what to buy and sell is
4 completely up to me. The client subsequently opens
5 an account with whatever broker I so choose.

6 Q I'm sorry, that you choose?

7 A I choose the broker.

8 If there is an account of 10,000 or over, I
9 might take two stock brokers. If it might be an account
10 with 20 or over, it might be three brokers.

11 The client opens the account, signs the agree-
12 ment with the broker, signs the so-called limited power
13 of attorney, which you have an exhibit here --

14 Q That is Exhibit 1.

15 A --Exhibit 1, and puts the money into the ac-
16 count of the broker.

17 Q So the broker holds the funds?

18 A I never am not allowed by SEC law to hold
19 any money and/or stocks from clients, and I am very
20 strict on that.

21 Q Who holds the stocks, by the way?

22 A The stock broker.

23 Q So the stocks stay in street name and are
24 maintained by the brokerage firm?

25 A That's right. The client gets the confirmation

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK1
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Polak

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of the purchase of sale, I get a duplicate, which is administered in my administration.

The client gets the monthly statement of the broker. I get a duplicate, which is again administered in my administration.

At the end of the year the client gets a complete report on all transactions, giving him a schedule of short and long term profits and losses realized, a schedule of dividends received, a schedule of interest received, and a review of the account compared with last year's statement.

MR. ZIVYAK: Off the record.

(Discussion off the record.)

BY MR. BLOCK:

Q You just mentioned something about a report, a year-end report that you give to your clients.

Do you retain copies of this report?

A Most certainly.

Q Where are these copies maintained?

A I make four copies. One goes in a client's file, one goes into a special SEC file, in case the SEC walks in and wants to see all the reports I made, one in a special file on my desk in case a client calls and I want to have it immediately referable and one

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 15

2 in my home in case a client calls me in the evening.

3 Q Do you have any interim reports that you make

4 available to your clients?

5 A Occasionally. If a client wants it he can

6 get it, but basically I am not geared to give interim

7 reports.

8 Q But if some clients requested an interim

9 report you would prepare it?

10 A Yes.

11 Q Where do you keep copies of all interim

12 reports?

13 A The same way.

14 Q Do you have with you here today any copies of

15 year-end reports or interim reports where appropriate?

16 A No, I do not, but if you want any of them I

17 will be very glad to furnish them to you.

18 MR. BLOCK: We will request those.

19 Q You mentioned earlier that you were a director

20 of certain public corporations.

21 A Yes.

22 Q Could you tell us what corporations those

23 are?

24 A I am a director of Frigitemp Corporation on

25 the American Stock Exchange. I am a director of Natpac,

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 16

2 Inc. and I am a director of Vynamic Corporation.

3 Q Are these public corporations?

4 A These are public corporations. I am only

5 mentioning the public corporations that I am a director

6 of. I am also a director of some private corporations,

7 but I do not think you are interested in that.

8 Q Could you tell us if you have ever been a

9 director of any other public corporations other than

10 those you just mentioned?

11 A I was a director of Spiral Metal Company

12 from 1961 to 1966 and I also was a director of Natpac

13 from 1961 to 1967 and I joined the company again as a

14 director.

15 Q Are those all the public corporations you have

16 ever been a director of?

17 A Yes.

18 Q Have you ever been an officer of a public

19 corporation?

20 A Never.

21 Q Have you ever received consultant fees of any

22 kind?

23 A Correction. At one time there was a company

24 Sachar Properties, Inc., which was mismanaged where I

25 went in to try to save the company and I was for a

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK1
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Polak

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short period an officer of that company.

I am also director of a gold fund, which just has registered where I am a director.

Q Have you ever received any consultant fees of any sort from any corporation; public corporation?

MR. ZIVYAK: Before you answer that question, would you narrow that question?

MR. BLOCK: No.

MR. ZIVYAK: Then I will object as to form.

MR. BLOCK: Let him answer. The objections are reserved to trial.

MR. ZIVYAK: Except as to form. I am not going to let him answer that question unless you home in a little bit, Mr. Block.

MR. BLOCK: Suggest a question. It didn't seem like an overly broad question to me.

MR. ZIVYAK: Well, for instance, certain public companies have a policy of paying their directors for attending meetings.

BY MR. BLOCK:

Q Exclusive of fees paid to a director for attending meetings, have you ever received any consultant fees from any corporation; public corporation?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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A Occasionally, I did, yes.

3

Q Would you tell us which corporations paid you
4 consultant fees?

5

A I got a consultant fee from California Time
6 Petroleum Company. I got a consultant fee of Mutual
7 Oil of America and I got a small consultant fee of Natpac
8 before I joined as a director.

9

Q What was that?

10

A Natpac, Inc. before I joined as a director.

11

Q Are these the only public corporations from
12 whom you received consultant fees?

13

A As far as I can recall, yes.

14

Q Have you ever solicited from a public corpora-
15 tion a consultant fee?

16

MR. ZIVYAK: Objection as to form.

17

Q Have you ever sought or requested from a
18 public corporation that it pay you a consultant's fee?

19

A In addition to these?

20

Q Yes.

21

A Never.

22

Q Initially, did you solicit the consultant
23 fee from California Time Petroleum Company?

24

MR. ZIVYAK: Objection as to form. Can
25 you rephrase that, Mr. Block?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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Q Could you tell us when and under what circumstances you were given a consultant fee from California Time Petroleum Company?

5

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A Let me answer you this way. I don't believe in being paid for services which are not yet rendered. My relationship with the companies I am close with is about the same as it is with clients. I try to serve the companies I am close with as good as I can, and after a certain period I ask to get something for it, and if the people are honest and know what I have done is of benefit to the company, they will reward me and that has been the basis of any remuneration I have gotten from any of these companies.

15

MR. BLOCK: Off the record.

16

(Discussion off the record.)

17

BY MR. BLOCK:

18

19

20

Q When and under what circumstances did you receive a consultant's fee from California Time Petroleum Company?

21

22

23

24

25

A About 1967 or 1968 I received 2,000 shares of California Time Petroleum stock.

Q Was that given to you in your own name?

A That was given to me in my own name as far as I can recall.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

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1
2 Q Can you tell us how it came about?

3 A I served the company for many years before
4 they went public and helped them to go public. I was
5 an advisor to the board. I was never paid anything for
6 being an advisor to the board, and subsequently I asked
7 for a kind of payment for all the work I had done for the
8 company and they decided to give me 2,000 shares.

9 Those 2,000 shares, by the way, were not given
10 all to me. Part of it went to my then partner Peter
11 Vandepaverd.

12 Q Did you ever receive any other consultant
13 fee from California Time Petroleum Co.?

14 A Not as far as I can recall.

15 Q Is California Time Petroleum Co. presently
16 listed on any exchange?

17 MR. ZIVYAK: Off the record.

18 (Discussion off the record.)

19 MR. ZIVYAK: In order to short-cut that
20 last question, let me put some information on the
21 record for you since we acted as counsel for Mr.
22 Polak in that transaction as well.

23 California Time Petroleum Corp. was at
24 one time listed on the Pacific Coast Exchange and
25 was traded in the Over-the-Counter market. A class

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

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1
2 action was brought against California Time Petroleum
3 Corp.--excuse me, three class actions were brought
4 against California Time Petroleum Corp.--and it
5 was subsequently consolidated in the Central District
6 of California under the name of Todd Smith versus
7 California Time Petroleum Corp.

8 The case was settled and that settlement
9 was approved after notice pursuant to Rule 23 of the
10 Federal Rules of Civil Procedure.

11 California Time Petroleum, the settling
12 defendant, defaulted in the settlement and Judge
13 Manuel Reel entered judgment on the stipulation of
14 settlement. That judgment, with interest, is
15 approximately now \$2,000,000.

16 California Time Petroleum Corp. then
17 changed its name to Petrominerals Corp. and filed a
18 petition for an arrangement pursuant to Chapter 11
19 of the Bankruptcy Act. That arrangement proceeding
20 is presently pending in the Central District of
21 California, and our local counsel in California
22 sits on its creditors committee.

23 Q Mr. Polak, is that your testimony?

24 A Yes, it is.

25 MR. BLOCK: Thank you, Mr. Zivyak.

Continental Reporting Company Inc.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

22

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2
3 Q Were you the plaintiff in one of these class
4 action suits against California Time Petroleum?

5 A Yes.

6 Q I'm sorry, you were plaintiff in your individual
7 capacity?

8 MR. ZIVYAK: Yes.

9 A Yes.

10 Q So you had purchased shares of California
11 Time Petroleum?

12 MR. ZIVYAK: No. Let me correct the record.

13 That class action was on behalf of unit
14 holders in oil and gas programs, which I am sure
15 you are familiar with, Mr. Block.

16 BY MR. BLOCK:

17 Q Was there a certification of your class in that
18 particular action, Mr. Polak?

19 MR. ZIVYAK: Pursuant to the stipulation
20 of settlement. There was no objection to the
21 Rule 23 motion.

22 MR. BLOCK: This was for purposes of
23 settlement, I take it.

24 MR. ZIVYAK: Yes.

25 Q Did you have--were any of your clients purchasers of
California Time Petroleum stock or interests in oil and gas

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

23

1
2 participations?

3 A I did.

4 Q You did?

5 A Yes.

6 Q Approximately how many of your clients purchased
7 California Time Petroleum stock or participations in oil
8 and gas stocks?

9 A I would say at least 100 clients bought the
10 common shares and at least 20--maybe it was less--I
11 think 20 bought the oil investment.

12 Q During what years did these purchases take
13 place?

14 A 1968 and 1969.

15 Q When was the lawsuit instituted?

16 MR. ZIVYAK: Off the record.

17 (Discussion off the record.)

18 MR. ZIVYAK: Let me say that to my best
19 recollection the case was instituted in February of
20 1971.

21 Q Did some or all of your clients lose money in
22 connection with their investment in California Time
23 Petroleum Co.?

24 A Yes. That is a fair statement.

25 Q Did all of them lose money?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

24

1
2 A I would say 90 per cent of the people lost
3 money in the stock as well as in the oil program.

4 Q Were you sued in connection with the purchase
5 of California Time Petroleum by anybody?

6 A No. By nobody.

7 MR. BLOCK: Off the record.

8 (Discussion off the record.)

9 Q Did you receive written complaints from any of
10 your clients in connection with the purchase of California
11 Time Petroleum Co.?

12 A No, not at all. Not that they were given
13 with it, but none. Of course, I had many discussions
14 with them. They said how can you be so stupid and how
15 can you trust the guy, but I think that's about what
16 people told me.

17 Q By the way, do you maintain a complaint file
18 from your customers?

19 A I have a file of every customer, so if there is
20 a complaint at all, maybe in the last five years I got
21 five or six, they can be found in my files, yes.

22 MR. BLOCK: We would also request that
23 those be made available to us.

24 MR. ZIVYAK: Only to the extent that those
25 complaints appear in the files of the persons for

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK1
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Polak

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whom Mr. Polak purchased Teltronics stock.

MR. BLOCK: I will stipulate to that.

THE WITNESS: Off the record.

(Discussion off the record.)

MR. BLOCK: To make the stipulation that I am willing to enter into with Mr. Zivyak clear, what we are asking for is complaint letters from persons who purchased Teltronics stock, or persons on whose behalf Mr. Polack purchased Teltronics stock, even though those complaints may relate to a different security or a different matter.

MR. ZIVYAK: I think we should limit that in time to the last--

MR. BLOCK: Six years.

MR. ZIVYAK: I don't understand how you are coming up with six years.

MR. BLOCK: The magistrate used that, so I think it is a good period.

MR. ZIVYAK: I think it is not.

MR. BLOCK: Why don't we leave that for further negotiations rather than delay Mr. Polak?

THE WITNESS: Off the record.

(Discussion off the record.)

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

26

BY MR. BLOCK:

Q With respect to Mutual Oil of America, would you tell us when and under what circumstances you received a consultant's fee?

A I advised the company from 1969 to 1973 in various capacities and asked for a remuneration in common stock in November 1973 and received in December 1973 4,000 common shares of Mutual Oil of America.

Q How many shares?

A 4,000 shares Mutual of America.

Q Could you tell us what you did? What services you rendered for the corporation?

A I would say the general advice I am giving almost any corporation based on my capacity as a tax consultant, accountant, administrator; knowledge of Wall Street.

Q Is Mutual Oil of America listed on any stock exchange?

A It is listed on the National Stock Exchange selling at about a half a dollar and at the time I received the 4,000 restricted shares, the value was \$4 a share.

Q Did you pay anything at all for those shares?

A No, but I had to report \$16,000 income on it.

Q Is that security listed on any other exchange?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

27

1
2 A No. Over the counter.

3 Q It is traded over the counter?

4 A Yes.

5 MR. BLOCK: Off the record.

6 (Discussion off the record.)

7 Q Did you have clients that you put into Mutual
8 Oil of America during the period 1969 through 1973?

9 A Certainly.

10 Q Could you tell us approximately how many clients
11 of yours were in Mutual Oil of America during that
12 period?

13 A Maybe 30, or 40.

14 Q Did the bulk of these clients lose money in
15 their investment in Mutual Oil of America?

16 A Some did, some did not.

17 Q Some made money and some lost?

18 A Yes.

19 Q Do you still have clients that are in Mutual
20 Oil of America?

21 A Most certainly.

22 Q Are you still advising Mutual Oil of America?

23 A Occasionally, yes.

24 Q Do you anticipate receiving future remuneration
25 from Mutual Oil?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK1
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Polak

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A If they survive, yes.

MR. BLOCK: Off the record.

(Discussion off the record.)

Q Could you tell us when and under what circumstances you received the consultant's fee from Natpac, Inc.?

A After I resigned from the board in 1967 I stayed in close contact with the company. The only reason I resigned from the board in 1967 was that I didn't want to get into the conflict of interest of not being able to buy when there was good news and not being able to sell when there is bad news.

However, I maintained my position in Natpac because I have a very high regard for management, and kept in close contact with them and kept advising them as to matters relating to Wall Street.

Subsequently I asked for 1500 shares of common shares of Natpac, which, again, was valued, I think at the then price of 1 1/2 dollars, and that the same way as Mutual Oil of America was reported by me in 1973 as income and deducted by Natpac as such.

Q Did you pay any money at all for these shares, or were they just given to you as a gift?

A If at all, maybe \$10. Nominal. I think I may

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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have paid \$150 for it. 10¢.

3

Q When was it given to you?

4

A In November or December 1973.

5

Q When did you go back on the board of directors?

6

A Last week.

7

Q From November or December of 1973 to the

8

present, have you had any of your clients in Natpac, Inc.?

9

A From November 1973 to date?

10

A Yes.

11

A Buying more shares?

12

Q Yes.

13

A Yes.

14

Q Have they also sold shares?

15

A Some did, occasionally.

16

Q With respect to California Time Petroleum Co.,

17

did you inform your clients that you had received a

18

consultant's fee?

19

A I don't know if I did specifically, but most

20

of them knew it because I never was hiding the fact from

21

them.

22

Q Did you tell them in any way?

23

A No. I didn't write a letter to them I am

24

receiving this and this. No, I didn't.

25

Q Do you recall if you told specifically each

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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client of yours who purchased California Time Petroleum Company of the fact that you had received a consultant's fee?

3

4

5

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A First of all, I received a consultant's fee much later, but most of them assumed, I think, that I got it because they knew of my advisory capacity of that and they know I cannot work for nothing.

9

MR. ZIVYAK: Off the record.

10

(Discussion off the record.)

11

BY MR. BLOCK:

12

13

14

15

Q I take it that not all purchases of California Time Petroleum Company stock were bought at a new issue? Some were bought in the after market, is that correct?

16

A Yes.

17

18

Q And, again, some were probably purchased on a new issue, is that correct?

19

A Yes.

20

21

22

Q With respect to Mutual Oil of America, did you tell your clients that you were a consultant, or that you received a consultant fee from Mutual Oil of America?

23

24

A No, but it was revealed in the statement of Mutual Oil of America that they received.

25

Q You say they received the statement from

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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California Time and Mutual Oil of America. How did

3

they receive those statements?

4

A They must have received it in the mail,

5

because it was mentioned as such. The receipt by me

6

was stated in the annual statement by the companies

7

as a disbursement and taken off the profit and loss

8

account.

9

Q Did you forward to your clients statements of

10

Mutual Oil of America and California Time Petroleum

11

Company?

12

A I am not supposed to mail them those state-

13

ments. The stock brokers where they are holding the

14

shares in street name should mail them.

15

Q With respect to Natpac, Inc., did you inform

16

your clients that you received a consultant's fee from

17

Natpac, Inc.?

18

A No, I did not. I didn't see any reason for it,

19

because it was a very nominal fee for a long period of

20

work and I just didn't have any reason to do that.

21

Q You had mentioned earlier that you are a

22

director of three public corporations. Could you tell me

23

again the names of those corporations or you can tell

24

me off the record.

25

(Discussion off the record.)

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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BY MR. BLOCK:

3

Q Mr. Polak, with respect to your being on the board of directors of Frigitemp Corporation, could you tell us again the dates that you served on the board of Frigitemp?

4

5

6

7

A I became a director of Frigitemp in, I think, May or June 1974.

8

9

Q Is that a listed corporation?

10

A Yes.

11

Q Where is it listed?

12

A It was over-the-counter when I joined the board. It is now on the American Stock Exchange since two weeks ago.

13

14

15

Q Did you put clients, your clients, into Frigitemp Corporation stock?

16

17

A I did.

18

19

Q Could you tell us approximately how many of your clients are in Frigitemp Corporation?

20

A I think about 15 clients with about 2,500 shares. Only in a minor way.

21

22

Q When, approximately, in time did you put these people into Frigitemp Corporation?

23

24

A A few months before I joined the board and I bought additional shares, 500 shares, when the company

25

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

33

2

came on the American Stock Exchange.

3

Q Was that for clients' accounts?

4

A Clients' accounts.

5

Q Do you remember which client?

6

A I can give you some of the names, yes.

7

Q Would you please?

8

A Do you want all the names?

9

Q Yes.

10

A As far as I remember them.

11

I bought Frigitemp for Mr. Theo Kroyn; Mr.

12

Bruce Rosow; Mrs. Josette Wolf, who is my sister-in-

13

law; Mrs. Tony F. Soep, who is my mother-in-law. I

14

bought it for my wife, Mrs. Catharina Polak. I bought

15

it for the Damaco Venture Capital Fund, which is the

16

plaintiff in this case. I bought it for Damaco Com-

17

pany, which is my own partnership, and a few more

18

clients where I have major positions and where I know

19

that they like to be part of any company where I am a

20

director.

21

Q Did you inform all of your clients at any point

22

in time that you had become a director of Frigitemp

23

Corporation?

24

A Not in writing, but surely by telephone.

25

Q Each one of the clients you informed by

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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2

telephone?

3

A Yes.

4

Q Do you have any writing in your possession,

5

custody or control which would indicate that you did

6

this?

7

A No.

8

Q Do you make written notes of your conversa-

9

tions with your clients?

10

A Rarely.

11

Q But you do on some occasions?

12

A Some occasions, yes.

13

Q Do you make memorandums of your conversations

14

with your clients?

15

A No.

16

Q Do you ever make any electronic recordings of

17

any of your conversations with your clients?

18

A Never.

19

MR. BLOCK: Off the record.

20

(Discussion off the record.)

21

BY MR. BLOCK:

22

Q With respect to the notes that you sometimes

23

make with respect to conversations with clients, do you

24

maintain those notes?

25

A If they are important, I do, but it is very

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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rarely.

MR. ZIVYAK: Off the record.

(Discussion off the record.)

BY MR. BLOCK:

Q Mr. Polak, you had indicated off the record why you from time to time get on boards of directors. Could you explain that to me on the record?

A Yes, I will. I have changed my basic thinking. Although I know it is quite a responsibility as a director, and I also know of the conflict of interest being a registered investment advisor, but I take the responsibility towards my clients quite highly and I feel that if I have put my clients into a certain stock and the stock doesn't perform, and the company itself does well and I could be part of hopefully a success story and help this company in certain areas where they lack advice, I have occasionally asked to become a director of these companies and in some cases I have been refused and in some cases I have gladly been admitted to the board.

Q I think you had indicated that the only type of company that you seek to be on the board of directors is one where management is honest and there is no fraud, is that correct?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 36

2 A Most certainly I don't like to be part of a
3 company where I am getting myself into problems.

4 Q Getting back to Frigitemp Corporation for a
5 second, you indicated off the record earlier that you
6 have an option to purchase some shares of Frigitemp.

7 A Yes.

8 Q Could you tell us about that; when you received
9 the option?

10 A I received the option in November 1974 re-
11 cently. It was an option to buy 3,750 shares at \$5 a
12 share, which was given to me, I think, three months ago.
13 It was two or three months ago. It was really given to
14 me already as of September, but I got the physical stock
15 in November.

16 MR. ZIVYAK: The physical option.

17 THE WITNESS: The physical option. I
18 think as of November 1974.

19 Q What was the market price when you got the
20 option?

21 A I would say the option price at that time was
22 five and a half. The stock subsequently had a stock
23 split, so my 3,750 shares became 5,000 shares subse-
24 quently.

25 Q Have you exercised that option?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 37

2 A No.

3 Q Was this option given to you personally?

4 A Personally.

5 Q Subsequent to September when you received the

6 option, did you put any of your clients into Frigitemp

7 Corporation stock?

8 A Maybe a few hundred shares, but minimal.

9 Q About how many clients are involved in those

10 minimal amounts of shares?

11 A Maybe three or four.

12 Q Do you recall who those clients were?

13 A I don't recall the names. I would have to

14 look it up.

15 Q Do you recall whether you informed those

16 clients, prior to purchasing the shares of Frigitemp

17 for their accounts, that you had received this option?

18 A No, I did not.

19 Q You had earlier mentioned something called

20 Vynamics.

21 A Let me go off the record for a moment. I

22 don't know if you want to put it part of the record.

23 (Discussion off the record.)

24 A There are certain clients who have consider-

25 able money with me who know my abilities and like to

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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be in any company where I am a director and as such I

3

made certain purchases just because of that reason.

4

Q Is there any writing indicating that the client

5

has asked you to put them into securities where you are

6

a director of the corporation?

7

A No, nothing in writing.

8

Q Is there any writing which indicates which

9

clients wish to be put into securities where you are

10

a director?

11

A No.

12

Q With respect to Vynamics, when did you become

13

a director?

14

A I became a director of Vynamics about one

15

month ago.

16

Q Prior to becoming a director of Vynamics, had

17

you put your clients, or some of your clients, into that

18

stock?

19

A Yes, I did.

20

Q Is Vynamics traded on any exchange?

21

A Vynamics is a public company which came out

22

originally at \$2 where I had a position of about

23

25,000 to 30,000 shares for myself and clients where I

24

have been quite discouraged about the company, about

25

the management of the company who are technically able,

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 39
2 but have no organizational talents at all, who need
3 badly help, where I tried to get on the board last
4 year. They didn't want any help. They finally recog-
5 nized the fact that they needed badly help and as such
6 I hope to give it to them.

7 Q Approximately how many of your clients were
8 put into Vynamics prior to the time you got on the
9 board of directors?

10 A At least 100.

11 Q Subsequent to the time you joined the board
12 of directors, have additional clients been put on?

13 A No, none.

14 Q Have some of your clients disposed of Vynamics
15 stock since the time you have been put on the board of
16 directors?

17 A No.

18 Q Are you compensated in any way for your being
19 on the board of directors of Vynamics?

20 A Not at all.

21 Q Do you receive any remuneration?

22 A Not even director fees.

23 Q With respect to Frigitemp, are you compen-
24 sated in any way?

25 A I am getting \$200 per meeting in Frigitemp.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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Q Excuse me.

3

A I am getting \$200 as a director of Frigitemp
for each meeting I attend.

5

Q You also mentioned earlier something called
Helco Chemical.

7

A Helco Chemical was a public company which was
brought out in 1968 where the then underwriter asked me
to be their nominee on the board. I joined the board
for two years and resigned for the same reason -- I
resigned because I did not want the conflict of inter-
est. Correct that. It was not in 1968. It was in
1961 I went on the board of directors and I left the
board in 1963. It was a real small company with small
people where I could not be of any benefit and where I
just felt that my presence on the board couldn't help
me or them.

18

Q Was Helco Chemical listed on any exchange?

19

A Helco Chemical was subsequently sold to another
group and then sold again and is now on the American
Stock Exchange under the name Helco Products.

21

22

Q Do your clients today hold shares of Helco?

23

A Almost none. Maybe a hundred or two hundred
shares.

24

25

Q What is the Damaco Venture Capital Fund?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 41

2 A Damaco Venture Capital Fund is a fund which
3 was created in 1969 by 20 people, each putting up
4 \$15,000.

5 Q I'm sorry, was that 1969?

6 A Yes.

7 It was 20 people each putting up \$15,000
8 and was originally intended to be invested in restricted
9 shares, or venture capital. It is a limited partner-
10 ship.

11 Q Did Damaco register with the State of New York
12 as such?

13 A Yes.

14 MR. BLOCK: Let me mark as Defendants'
15 Exhibit Polak 2 for identification what purports
16 to be a certificate of limited partnership.

17 (Certificate of limited
18 partnership of Damaco
19 marked Defendants' Exhibit
Polak 2 for identification,
as of this date.)

20 BY MR. BLOCK:

21 Q Let me show you what has been marked as
22 Defendants' Polak Exhibit 2 for identification. It
23 purports to be a certificate of limited partnership. I
24 ask you if you have ever seen this document before?

25 A Yes.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 42

2 Q Could you describe that document?

3 A Yes.

4 Q Does that document bear your signature?

5 A It does.

6 Q Could you describe that document?

7 A Excuse me?

8 Q Could you describe that document?

9 A This is a certificate of limited partnership

10 showing all the partners in Damaco Venture Capital

11 Fund.

12 There was one general partner and 19 limited

13 partners.

14 Q Is Damaco Venture Capital Fund what is commonly

15 referred to as a closed end mutual fund?

16 A I would not say that.

17 Q How would you characterize it so I don't put

18 words in your mouth?

19 A It is a limited partnership in which people

20 put in money and where at the year end they get a re-

21 port and where they each report the income and/or loss

22 of the partnership as their personal income.

23 MR. ZIVYAK: In that case I would say it

24 was a closed end investment company.

25 MR. BLOCK: I meant a closed end invest-

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
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Polak

43

ment company as opposed to my characterization.

Q Did you take part in the formation of the
Damaco Venture Capital Fund?

A Yes, I did.

Q Who else was involved in the formation of it?

A My then partner Peter Vandepaverd.

Q Anybody else?

A And a lawyer who advised us.

Q Is that Mr. Salomon?

A Mr. Salomon, yes.

Q Prior to the formation of Damaco Venture
Capital Fund and your involvement with Equity Interest,
Inc., could you give us a brief description of your
business history from the time you came to this country?

A I came to this country in 1951 as an accountant
in Holland where I had a big tax practice which also
touched the accountant's profession.

I had in Holland quite a big accountant's
office with at least 100 clients, some of which had
money in America. After coming back from concentration
camp in 1945, I found in Holland many more Jewish widows
than Jewish men and those Jewish widows all had the need
of advice as to investments.

I, therefore, did not limit my services to

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1 Polak 44

2 accounting and tax services, but also to investment
3 advisor.

4 When I came to the United States, some of these
5 people who had money in the United States wanted me to
6 continue my advice and manage their money here.

7 I started to work for my father-in-law who
8 had a diamond business in the United States. I studied
9 accounting, as I told you before, at LaSalle University,
10 a correspondence course. I worked for an accountant
11 to get myself knowledge of American business practices.
12 After the death of my father-in-law in April 1953,
13 I took over all his diamond interests, and I subse-
14 quently was a vice president of Son & Prins Company,
15 a 75-year old diamond wholesale firm in Chicago, Illinois,
16 where I am still a vice president, although my services
17 are nominal.

18 Next to my diamond duties, my accounting, I
19 broadened myself in the investment field. I got more
20 clients until I registered as an investment advisor at
21 the Securities and Exchange Commission in my own name
22 and subsequently went into Equity Interest.

23 Q When did you first register with the SEC as
24 an investment advisor?

25 A I would say in 1958, but I am not 100% sure

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1 Polak 45

2 on that.

3 Q Have you ever been the subject of an SEC
4 disciplinary action.

5 A Never.

6 Q Have you ever testified before the SEC in
7 any proceeding?

8 A Several times.

9 Q Could you tell us what proceedings those were?

10 A I had an investigation in Spiral Metal Company
11 where I was a director and testified at length into all
12 my transactions I had while I was a director. I was
13 completely cleared. I don't know if the word cleared
14 is right here, because I just had the investigation and
15 that was it.

16 MR. ZIVYAK: So you weren't cleared
17 because you were never accused.

18 THE WITNESS: I was never accused.

19 Q What year was this investigation?

20 A 1965.

21 MR. ZIVYAK: Off the record.

22 (Discussion off the record.)

23 BY MR. BLOCK:

24 Q Have there been any other SEC investigations
25 that you have testified in?

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1 Polak 46

2 A Not with me, but I have been asked to be a

3 witness in a case, which was a famous case against a

4 Murray Pelts and some other people where Murray Pelts

5 was completely cleared, but some other people were in-

6 dicted by the SEC.

7 Q Do you recall the name of the investigation?

8 A Not any more, but if you want it I can easily

9 give it to you.

10 Q It is not that important.

11 Do you know the year?

12 A About three years ago, I think. 1971.

13 Q And you testified in 1971?

14 A I testified officially in court.

15 Q Did you have any securities in that company

16 in the names of your people?

17 A I most certainly did. I had bought stock and

18 I had sold shares and I had lost for my clients and the

19 government asked me to be a witness for the prosecution

20 and I was a witness for the prosecution as good as I

21 could be.

22 Q Who were the general partners of Damaco

23 Venture Capital Fund?

24 A The Damaco Company, a general partnership.

25 Q Is that the only general partner?

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1 Polak 47

2 A Yes.

3 Q What is Damaco Company?

4 A Damaco Company is a firm, a general partner-

5 ship, with at the moment three partners: myself, my

6 son, Anthony Gerald Polak, and a Mr. Jacques L. Cardoso

7 and two limited partners, my wife, Mrs. Catharina Polak,

8 and my sister-in-law Mrs. Josette Wolf.

9 Q How many limited partners are there?

10 MR. ZIVYAK: He just named them.

11 A Just two limited partners.

12 Q Not in Damaco Company, but in Damaco Venture

13 Capital Fund, how many limited partners are there?

14 A 19.

15 Q Could you tell us who those people are?

16 MR. ZIVYAK: The record speaks for itself.

17 Is it necessary?

18 MR. BLOCK: Yes.

19 A You want to know the background?

20 Q Yes.

21 A My wife Catharina Polak, a trust of Robert

22 Salomon and Catharina Polak for the benefit of my wife

23 and three children.

24 A trust for Robert Salomon and my sister-in-

25 law and her daughter.

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1 Polak 48

2 Mrs. Jane Bram, the wife of a good friend of

3 mine. Not a client.

4 Mr. Theodore G. Koryn, a friend and client.

5 Mr. Juan Metzger, a good friend and client.

6 Mr. Bruce Rosow, a friend and client.

7 Mrs. Judith L. Cardoso²⁰, the wife of my part-

8 ner in Damaco Company.

9 Mrs. Hortense Goldenberg, a friend and good

10 client.

11 Mr. Benjamin Kwitman, a friend and client.

12 Lesim (S.A.). It is incorporated in Europe.

13 It is a Panama corporation from a wealthy client and

14 friend in Amsterdam, Holland.

15 Q What is the name of it?

16 A The corporation?

17 Q Yes.

18 A Lesim.

19 Max Famely, a client from Los Angeles.

20 Mr. Laurence Kramer, a client from Los Angeles.

21 Mr. Henry Weingartner, a friend and client

22 from Eastchester.

23 Mrs. Bernice Levie, the wife of one of my

24 stock brokers who subsequently was bought out about two

25 years ago.

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1 Polak 49

2 Frederick B. Polak, my son, now residing in
3 Silver Springs, Maryland.

4 Mrs. Josette Wolf, my sister-in-law.

5 Robert Salomon and Tony Soep as trustees for
6 Helen Weisz, a trust for the benefit of a sister of my
7 mother-in-law.

8 Robert Salomon and Jack Polak, as trustees
9 for Mr. and Mrs. Muller, a trust for the benefit of a
10 client in Holland.

11 Q Did any of those persons or entities you just
12 mentioned purchase Teltronics stock, or did you pur-
13 chase Teltronics stock for any of those persons or
14 entities?

15 A Yes.

16 Q Which ones?

17 A Judith Cardoso, Damaco Venture Capital Fund
18 itself, which is part of the complaint, Mrs. Hortense
19 Goldenberg, Benjamin Kwitman, Bruce Rosow, the Weisz
20 trust, Josette Wolf, Juan Metzger. That's it.

21 Q You mentioned earlier that Damaco Venture
22 Capital's business purpose was to acquire restricted
23 shares for venture capital, is that correct?

24 A And new issues. I have to add to that new
25 issues.

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Polak

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3 Q Was that the initial purpose, new issues as
4 well?

5 A Yes.

6 Q Has that business purpose at all been altered
7 since the inception of Damaco?

8 A It has altered for various reasons. No. 1,
9 because of our original investment turned out most of
10 them to be quite bad, so the capital available to us for
11 new investment was very limited.

12 Then it has altered because of the nature of
13 making investments in restricted shares, which has
14 become an investment which in today's bad stock market
15 is not suited at all for any reason as long as there are
16 bargains around in free shares.

17 Q Where are Damaco's offices presently located?

18 A 60 East 42nd Street.

19 Q Are those the only offices Damaco has?

20 A Yes.

21 Q Is there any literature prepared by Damaco and
22 disseminated to its limited partners?

23 A Damaco Co. you are talking about?

24 Q No, Damaco Venture Capital Fund.

25 A They get once a year a report prepared by our
auditors, J.K. Lasser & Co. They get a certified statement

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Polak

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at the end of the year showing their proportion in the share of profits, losses, dividends and interest and a report on the status of the value of the equity in the Damaco Venture Capital Fund.

Q The net asset value, is that what you are referring to?

A Yes.

Q Is that the only information disseminated to the limited partners during the course of a year?

A More or less, unless somebody in the course of the year asks me how is Damaco Venture Capital Fund doing and I tell them lousy as everything else.

Q Do you maintain these reports?

A Most certainly.

Q Where are they maintained?

A In the office.

Q Do you also maintain a complaint file for Damaco Venture Capital?

A I have no complaint file on Damaco Venture Capital Fund.

Q Have you ever received written complaints from any of the limited partners at Damaco?

A No.

Q I think you testified earlier that each limited

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Polak

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2 partner put in \$15,000 initially.

3 A Yes.

4 Q Has there been any additional capital contributed
5 by the limited partners?

6 A Never.

7 Q If I multiply 15,000 by 20 I would get \$300,000.

8 A Yes.

9 Q Was that the initial capitalization?

10 A That was the initial capitalization.

11 Q What is the net asset value or the total
12 value of Damaco presently?

13 A Damaco Venture Capital Fund?

14 A Yes. I'm sorry. That's what I mean when I
15 say Damaco.

16 A I would say \$50,000.

17 Q What was it a year ago this time?

18 A 100,000.

19 Q Was it ever in excess of 300,000?

20 A No.

21 Q Are Damaco's limited partnership interests
22 registered with the SEC in any fashion?

23 A Are Damaco's limited partners?

24 Q Yes. The interests. The sale of those
25 certificates of interest.

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MR. ZIVYAK: I will object to the form of
the question.

MR. BLOCK: Certificate is a bad word.

MR. ZIVYAK: Not only that. Sale is a
bad word.

BY MR. BLOCK:

Q Were the initial partnership interests,
limited partnership interests, ever registered with the
SEC in any fashion?

A No. I was assured by my lawyer it was not
necessary.

Q You didn't seek any position from the commission,
I take it, with respect to it.

A No, because it was less than 25 people, I
think, and I did ask that question I remember, but I
was told no.

Q I take it the general partner put in an equal
amount of money as did the limited partners?

A Of course.

Q Is Damaco registered with the SEC as an
investment company, Damaco Venture Capital Fund?

A No.

Q Are you aware of any exemption Damaco has from
any such registration?

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MR. ZIVYAK: I will object. It calls for

3

a legal conclusion.

4

Q Who is Damaco Venture Capital Fund's
advisor?

5

6

MR. ZIVYAK: I will object. There is no

7

foundation for that.

8

Q Does the Damaco Venture Capital Fund have an
investment advisor?

9

10

MR. ZIVYAK: Are you using that term within

11

the meaning of the 1940 Act, Mr. Block?

12

MR. BLOCK: In a more general way.

13

MR. ZIVYAK: Might I suggest to you that

14

a limited partnership with a general partner doesn't

15

need an investment advisor?

16

MR. BLOCK; I understand that.

17

Q Does Damaco have an investment advisor?

18

A Damaco Venture Capital Fund has an investment
adviser in the form of Equity Interest who charges
a nominal fee to the limited partnership for the services
rendered.

19

20

21

22

Q Could you tell us what fee Equity Interest,
Inc. receives from Damaco and how it is calculated?

23

24

A You used Damaco again.

25

Q Damaco Venture Capital Fund.

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Polak

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A I don't understand that.

Q Unless I say otherwise, that's what I am referring to.

A I would say the fee varies from 1,000 to \$2,000 depending on the services rendered that year.

Q How is that fee calculated?

A The fee is calculated--originally the fee was supposed to be calculated on the basis of the equity entrusted was supposed to be higher. With the bad performance we have lowered our fee as much as possible in order to make the whole thing go.

I would say in the current year the fee will not be more than at least \$1,000 a year.

Q How is that \$1,000 calculated?

What is the formula?

A No real formula except that it should be much higher on the basis of time involved, but considering the bad circumstances I have lowered that fee as much as possible as I have been doing this to almost all my clients.

Q How do you determine what that fee is to be?

A My services are really based on the equity entrusted to me. I have a schedule which if you want it can be part of your questions.

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I have gone through bad times, like everybody else, and I have lowered my fees in almost all cases far below my schedule.

5

6

Q Is there a written schedule which sets forth the fees?

7

A Yes.

8

9

MR. BLOCK: Could we have a copy of that schedule?

10

MR. ZIVYAK: Off the record.

11

(Discussion off the record.)

12

A Here you have a basis of how I figure it out.

13

(Document handed to Mr. Block.)

14

15

MR. ZIVYAK: We will provide you with a suitable copy of that.

16

MR. BLOCK: I think that is a good idea.

17

18

Let the record reflect that we will be provided with a copy of that schedule.

19

BY MR. BLOCK:

20

21

Q Is there any writing evidencing the arrangement between Equity Interest, Inc. and Damaco Venture Capital Investment Services?

22

23

A No. There is not.

24

25

Q Is there any agreement whereby Equity Interest, Inc. has become the investment advisor to Damaco Venture

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Polak

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2 Capital?

3 A Let me say it this way. When Equity Interest
4 took over the interests of Jack Polak, because I
5 incorporated my investment counseling business formerly
6 done in my personal name into Equity Interest, all
7 clients were so informed, and all clients knew it.

8 There is nobody who objected to the fact
9 that I incorporated my business into the name of
10 Equity Interest, and as such Equity Interest is the
11 continuation of the services that Jack Polak used to
12 render to everybody.

13 The same applies to the Damaco Venture Capital
14 Fund.

15 Q Is there any writing evidencing the fact that
16 Jack Polak was the investment advisor to Damaco Venture
17 Capital Fund?

18 A Damaco Co. is the general partner, and, as
19 such, was handling the account, and I would say all the
20 money entrusted to me in the Damaco Venture Capital Fund
21 was entrusted to me in my abilities, which unfortunately,
22 failed in many cases, to manage a special fund.

23 Each limited partner in the Damaco Venture
24 Capital Fund knew that Jack Polak was going to manage
25 \$15,000 for them.

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Q But is there any agreement anywhere between Damaco Venture Capital Fund and Jack Polak giving you the authority to be investment advisor?

A No.

Q Is there any authority indicating that you were to be compensated as investment advisor to Damaco Venture Capital Fund?

A No. I must say this: Everybody was informed so in the annual report, in which they see that Equity Interest is the investment advisor of Damaco Venture Capital Fund because the fee as such was stated in the annual report.

A Is there any document that gives you authority to act on behalf of Damaco Venture Capital Fund? A document setting forth your powers and authority?

A Damaco Co. is a general partner and as such as a general partner in Damaco Co. I can do whatever I want.

Q Is there any document that says the general partner will be compensated for his role as general partner?

A No, but the general partner is not compensated. There is an outside investment advisor, Equity Interest, who does the work.

Q Is there any document that sets forth that the

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Polak

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limited partnership has the authority to compensate the investment advisor?

A I don't recall.

Off the record.

(Discussion off the record.)

BY MR. BLOCK:

Q Do you have any power of attorney, or power of authority, giving you the right to hire an investment advisor and compensate him for services?

MR. ZIVYAK: I don't understand that question, Mr. Block.

Q Is there any power of attorney from Damaco Venture Capital to Equity Interest, Inc., or to Jack Polak?

A No.

Q What is the procedure for the investment decisions made by Damaco Venture Capital?

A The procedure is to buy anything I can think of where I can make money.

Q And I take it you make these determinations?

A I make the determinations all alone.

Q What sources of information are consulted prior to making these decisions?

A Stock brokers, reports from companies, talks

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with management of companies, approaches by outsiders who know that I am managing money for myself and clients.

They are basically the same considerations as to any investment decision made by me in managing whatever I manage.

Q Are there any writings evidencing the procedure that Damaco, or its investment advisor, follows in making these investment decisions?

A None, except that I must make a decision (a) as to the ability of money, and (b) as to the possibility of making money with the investment as such.

Q In January of 1974, at what firms did Damaco maintain brokerage accounts?

MR. ZIVYAK: Damaco Venture Capital Fund?

MR. BLOCK: Yes.

A Drexel, Burnham; Heine, Fishbein; Thompson, McKinnon.

MR. ZIVYAK: What was the date?

MR. BLOCK: January 1974.

A Whitney Securities, and maybe a few more, but if necessary I can give it to you.

1974 you asked for?

Q January of 1974.

A Yes.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
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Polak

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2 Q In January 1973, at what firms did Damaco
3 maintain brokerage accounts?

4 A I would say the same and Shaskan & Company.
5 Maybe a few more, but that I would have to look up.

6 Q For how long prior to January of 1973 did
7 Damaco have an account with Shaskan & Company?

8 A Since 1969 since starting the limited partner-
9 ship.

10 Q And who at Shaskan & Company serviced that
11 account?

12 A A partner by the name of Stanley Bartels.

13 Q Are you in any way related to Mr. Bartels?

14 A Not at all.

15 Q Could you tell us when and under what
16 circumstances you first met Mr. Bartels?

17 A I met Mr. Bartels maybe 10 or 12 years ago
18 at an outing of Allstate in Montauk.

19 Q Is that the insurance company?

20 A No. There is another Allstate. It is a real
21 estate firm which subsequently went bankrupt. We became
22 friendly and I became one of his clients. I became one of
23 his major clients.

24 Q Do you have any social relationship with
25 Mr. Bartels?

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Polak

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Q When you say limited, what do you mean?

3

A We see each other quite regularly at the

4

Netherlands Club of which he is a member and I am a

5

member.

6

Q What is the Netherlands Club?

7

A The Netherlands Club is a club of Dutchmen in

8

the United States, or sons of Dutchmen, and his father

9

used to be a Dutch citizen and came here 80 years ago.

10

He is a real American, but he was very proud

11

of his Dutch ancestry and was proud to become a

12

member of the Netherlands Club and I met he and his wife

13

in the Netherlands Club.

14

Q Do you and your wife and he and his wife

15

meet socially outside the Netherlands Club?

16

A I would say the only time we met was two years

17

ago. Not too much.

18

Q Has your social relationship with Mr. Bartels,

19

be it whatever you said it is, still continued to this

20

day?

21

A It is about the same as it was before.

22

Q Is Mr. Bartels still in the brokerage industry?

23

A He is.

24

Q Where is he?

25

A He is a partner in L.M. Rosenthal & Co.

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Q L.M. Rosenthal & Co.?

3

4

A I don't know if he is a partner. He may be a
vice president.

5

6

Q Did he go to L.M. Rosenthal & Co. subsequent
to leaving Shaskan & Company?

7

8

A No. Subsequent to Shaskan he went to another
firm that went broke and then to L.M. Rosenthal & Co.

9

10

11

Q Did you take your account from the company that
Mr. Bartels went with subsequent to Shaskan & Company
and then to L.M. Rosenthal?

12

13

A I would say I gave him my family accounts, but
most of the accounts were taken away from him.

14

15

Q At L.M. Rosenthal does he have your accounts?

16

A He has maybe 20 accounts, while at Shaskan he
used to have 60 accounts.

17

18

Q So he has something less than what he used
to have?

19

A Much less.

20

21

Q Do you have your personal account with Mr.
Bartels presently?

22

A Yes.

23

24

Q Did you have your personal account at the firm
he went to after leaving Shaskan?

25

A Yes.

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Q Did you have a personal account with Mr. Bartels while he was at Shaskan?

A Yes.

MR. BLOCK: I think this is a good time to break for lunch.

(Whereupon, at 12:00 Noon a luncheon recess was taken.)

AFTERNOON SESSION

1:30 P.M.

JACK POLAK resumed the stand and testified further as follows:

EXAMINATION (Continued) BY MR. BLOCK:

Q Approximately how big was your account during 1973 with Mr. Bartels?

A What was that?

Q Dollar-wise; dollar value.

A In 1973?

At cost or at value? There is a difference.

Q Let me ask you at value and then I will ask you at cost.

A This is a real rough estimate, but I would say

Commercial Reporting Company Inc.

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2 it all depends on what time in 1974. Maybe a value of
3 \$200,000.

4 Q What was the cost of your portfolio of securities?

5 A At least \$500,000.

6 Q Did Shaskan make available to you many new
7 offerings that it was doing?

8 A Almost any new offering was offered to me.

9 Q That is, you personally?

10 A You mean personally or to myself and my
11 clients?

12 Q Let's start with you personally.

13 A No, because personally I did not take any
14 personal offering since 1973. Before that they did.
15 Then there was a ruling in which they felt that I personally
16 could not take any new issues, which I didn't.

17 Q Prior to 1973 you did get most of Shaskan's
18 new issues?

19 A Yes.

20 Q Did your clients also get most of Shaskan's new
21 issues?

22 A All of them, yes.

23 Q Are you registered with the SEC as a broker-
24 dealer in securities?

25 A No.

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2 Q I think you mentioned earlier that you had about
3 150 clients.

4 A Yes.

5 Q How do each of your clients compensate you or
6 Equity Interest, Inc. for the services you render to
7 them?

8 A As per a schedule which I will give you, which
9 I showed you before.

10 Q How is it calculated if you can explain it?

11 A The calculation is that I take the value of an
12 account at the end of the year and I take a certain
13 percentage. A \$5,000 account I charge a \$200 fee.
14 A \$10,000 account I charge \$300 fee.

15 Now, this is variable. I can have a \$10,000
16 account where I have one or two transactions during the
17 year and I won't charge them more than \$200. I feel a
18 little bit more as an accountant who is putting in the
19 time and taking into account the time spent on an
20 account, I could have a \$5,000 account on which I did a
21 tremendous amount of work which I would charge 250,
22 but within these amounts charges are made. However, I
23 have to add that many of these accounts have not been
24 charged in the last one or two years at all, because I
25 feel I did not perform at all for them and I more or less

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postponed my fee and my year-end report reflects that,
3 which, I more or less say, your account went down this
4 year 20 per cent and I postpone sending you my fee
5 until the end of next year at which time I hopefully will
6 perform better.

7

8

Q Is there any writing that is supplied to your
clients with respect to the fees that are to be charged?

9

10

11

12

A If a new client comes and wants to have my fee
schedule, I am sending it to him. Otherwise, it is
just a question of through the years they know how much
I am charging.

13

14

Q In other words, they trust you because they
worked with you?

15

A Yes, that is the relationship.

16

17

18

Q Say somebody opened an account with you in
1973, specifically January, and they didn't ask you about
your fees. How would they be billed?

19

20

21

A He would normally be billed in December 1973,
after the account is with me one year. Then I am billing
the account.

22

Q And you bill it on a yearly basis?

23

24

A On a yearly basis after one year has elapsed
at the then equity at the end of the one-year period.

25

Q How is payment made?

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2 A Either by out of the account or by separate
3 check by the client. I prefer to have the fee paid out
4 of the account in order to compare performance. In
5 that case, I do write a letter which the client has to
6 sign and instruct the broker. I am not allowed to
7 take any fee out of the account personally, because I
8 cannot take any money out of any account.

9 Q Do you have letters like that in your files?

10 A You mean in which I write the client:

11 "Please find enclosed my fee for services
12 rendered and if you agree please sign the attached
13 instructions to Heine to pay me the fee"?

14 Yes.

15 MR. BLOCK: Can we have those?

16 MR. ZIVYAK: I don't see why. I have been
17 terribly broad.

18 MR. BLOCK: I appreciate the fact that
19 you have been rather liberal in allowing us to
20 explore what we view as relevant information.

21 MR. ZIVYAK: As far as this is concerned,
22 I just see no point in overtaxing a Xerox machine
23 for this kind of out-in-left-field type of
24 document.

25 MR. BLOCK: Again, that is something

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I guess we will let the magistrate decide so why
don't you mark the spot and we will work it out?

BY MR. BLOCK:

Q Have any of your clients in the last two years
complained about your billings?

A No.

Q By the way, do all of your clients speak English?

A I would say 99 per cent.

Q Speak English?

A Yes.

Q Do they all read English?

A Most certainly.

Q Is there a per cent that don't read English?

A Maybe I have one or two Dutch clients, where
the English is a little bit odd, but I would say yes,
everybody knows English.

Q Do you tell each of your clients that you bill
differently with respect to each account?

MR. ZIVYAK: I'm sorry, I don't understand
that question.

Q Have you made any disclosure to each of your
clients that your method of billing differs from account
to account?

MR. ZIVYAK: I don't think there is any

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2 testimony that they do differ from account to
3 account, but rather that they differ from size of
4 account to size of account. I think that is
5 significant.

6 A Every client knows that my billing depends (a)
7 on the size of account and (b) on the work involved.
8 That's really what everybody knows and that's the way
9 they are charged.

10 Q How do they know this?

11 A By experience. You forget, most of my clients
12 have an experience of two to ten years with me.

13 Q But have you ever told them of the method of
14 billing various clients?

15 A I am sure I did, yes.

16 Q What services do you provide for your clients?

17 A The buying and selling of speculative
18 securities, managing of funds, the advising as to what
19 to do with other money, planning as to the future.

20 Q Does that include tax planning?

21 A No. Although I must say I leave the real tax
22 planning to the accountant, but with my broad knowledge
23 of taxes, I do provide them with any possibilities that
24 are in the form of gifts to children, setting up trust
25 funds. I would say almost anything which relates to taxes

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2 which I had worked out then by their accountant.

3 Q When you decide to purchase or sell a security
4 for a client, how do you go about doing that? What is
5 your procedure?

6 A My broker is--in buying or selling?

7 Q Either one. I mean, how do you make the
8 determination?

9 A There is a big difference in buying and selling.

10 Q Use buying first.

11 A In buying, first of all, I choose the security
12 which I like. Then I take the security which I like
13 very much. There are certain securities which I want in
14 almost any account. I have recently taken a position in
15 a stock and then I go through all my accounts and see
16 what client doesn't have it yet, and I see in that client's
17 account what can I sell in order to get him in that
18 stock, because I hope that stock will outperform any
19 stock he has already.

20 It is question of availability of money, which
21 decides if I will buy that stock for that client, but
22 basically first I have to make the decision should I buy
23 that and that stock.

24 Q How do you go about making that decision as to
25 whether or not you should buy that stock?

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2 A A, I look into a material which is sent to me
3 by either the stock broker who tries to sell it to me, or
4 by the company, or I visit the company myself, or my son
5 is visiting the company and reports to me, and we discuss
6 together if that stock fits our purposes.

7 Q Do you prepare any written report concerning
8 any issue that you might make an investment in?

9 A Not to clients.

10 Q I mean an internal report.

11 A Internal reports, sometimes I do, yes, but
12 occasionally I would say. Let me say if my son visits a
13 company of course, he makes notes and he provides me
14 with all the notes.

15 If he has time he types it out for me and if he
16 doesn't have time he leaves the notes which are part of
17 the file and they are enough for me.

18 If I go to an annual meeting, and I do to
19 almost any company I have my money invested in, I am
20 going to a meeting, and that's why I was so mad at
21 Teltronics that they held that meeting far out in the
22 island on a holiday, which was impossible for me to go to
23 the meeting and ask all my questions, so I am going to each
24 annual meeting of each company I have my money invested in.

25 I consider the annual meeting of a company the

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2 best place to ask questions and get questions answered.

3 I am well-known in Wall Street in smaller
4 companies of having at least 20 to 40 questions at almost
5 any annual meeting, because with an accountant's eye I am
6 analyzing the proxy statements, as well as the annual
7 report of this year and last year and comparing them
8 and as such I am asking all the questions.

9 These are all the basis of either my initial
10 investments or my additional investments.

11 Q When you make that decision that you want to
12 invest in a security, do you put together any report for
13 your own files as to why you made that investment decision?

14 A No.

15 Q If a client were to ask you later on to provide
16 him with the basis for a given investment decision, would
17 you do that?

18 A Of course. I bought a stock for a client, the
19 same stock I was just mentioning, stating that I bought
20 a stock, and the client called me and he said "Why did
21 you buy it?" And I gave him all my reasoning.

22 In fact, he was pleased with my reasoning and
23 he said "Why don't you buy me another 500 shares?"

24 Q Did you give him anything in writing to that
25 effect, the basis for your decision? Did you prepare

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2 any writing?

3 A I don't need it because I have a broad file on
4 that company. I have the annual report, the quarterly
5 report. I have notes from a meeting which I had with
6 management and I can give this to anybody who wants it,
7 really.

8 I could make a complete written report, but
9 basically I don't make written reports because my time is
10 just limited to what I am doing.

11 Q Are there times when you do make this written
12 report?

13 A No. I would say maybe once in a while I wrote
14 to a client in Holland and I bought you that and that
15 stock, and I gave him some, in 20 lines, some basics
16 of the companies. I could have written three or four
17 pages on it, but that is the reason I bought it.

18 Q When you write letters about a given company
19 to a client, what file would you maintain that letter in?

20 A In the client's file.

21 Q And you would maintain that letter through this
22 day, I take it?

23 A Yes. I have files. My files are all kept for
24 20 years already.

25 Q Once you have made an investment decision as to

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the merits of a company that you feel certain clients should take, how do you determine which clients should invest in that particular issue?

A A, the availability of money; b, the possibility of selling certain other securities to buy that stock for the client; c, some clients only want dividend-paying stock, and if that stock doesn't pay a dividend it is excluded for that client already.

There you have some of the considerations.

Q When a client opens an account with you, do you have like a new account form that they fill out setting forth their goals and purposes?

A No. I know the goals, again, from experience and I know what clients want and I have basically never had too many complaints in this respect.

Q But there are no writings evidencing a given client's investment objectives, is that correct?

A No. I must explain one thing.

The major part of the money entrusted to me is speculative money. I am a rare specimen in Wall Street because most of the investment counsels in Wall Street are investing in stocks of investment type. I am basically not catering to investment type stocks. Not so much that I don't believe in it, but I feel that the major

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2 stock brokers can do, should do a good job on investment
3 type stocks. No client of mine needs me to tell him to
4 buy General Motors or American Tel and Tel. They need
5 me for the certain types of stocks I am trying to find
6 them.

7 Q If I can interrupt you, do you explain this to
8 your clients initially, that this is a speculative
9 investment?

10 A Most certainly. What I have been getting from
11 clients is, almost always, speculative money. I also
12 have explained to them that sometimes more money can
13 be made in speculative stocks than in investment stocks.

14 Q Could you explain that to me? I didn't follow
15 that last answer.

16 A When I have my initial talk with a client I
17 generally ask him what his equity is, I want to know what
18 his aims are, and what kind of securities he has in
19 his investment account.

20 I don't want to touch his investment account at
21 all, although I want to know what it is and I would like
22 to advise him, but sometimes I do make certain
23 suggestions, which, to the layman, might look very
24 speculative, but where I feel that it could be of
25 benefit to a client, so if I tell a client "Sell 100

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2 Consolidated Edison at 20" which I did one year ago,
3 "and buy for that 2,000 Spiral Metal at 1", and he did
4 it and he is very thankful to me because Spiral Metal
5 is selling at 2 and Consolidated Edison is selling at
6 7.

7
8 Sometimes I go into that area, but basically
9 I like to separate the investment type with the
10 speculative.

11 Q You said something about clients making money
12 in speculative stocks. That's what I was not following.

13 Could you explain what you tell your clients
14 with respect to that?

15 A I feel, and I am not sure it is true, although
16 I make the statement, that people can make more money
17 in speculative securities than in investment securities.

18 Last year it certainly has been true. My
19 performance in the past year, 1973, has been better
20 in speculative securities than the average stock broker
21 has been able to do in almost any investment type stock.
22 As such, I feel quite strongly. There is another thing
23 I like in my type of stocks. That is the possibility
24 of being able to call the president of the company X
25 and ask him what is going on today, without going into
the question that where you can get inside information.

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I don't want inside information, because my position is too difficult for that and I can create a conflict of interest.

When I talk to the president of a company, I state right away "I don't want inside information, but I do want to know what is going on."

You try this with any New York and American Stock Exchange company and you will get almost no answer. Either you get the answer, and they don't know what they are talking about, or you don't get an answer.

In nine out of ten of my over-the-counter companies, which I put my money in, I am on a first name basis with the president of the company who I can call almost any day and ask him what is going on today.

Q Do you also advise your clients when they first join up, that speculative securities also run a greater risk of loss?

A Most certainly.

Q When you make an investment decision, do you at any time communicate it directly to your client?

A If I happen to talk to him yes. Otherwise, no.

Q And this would be in advance of the purchase?

A No, never in advance of the purchase.

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2 Q So once you have made a decision you execute
3 the transaction?

4 A And then he sees it, and if I happen to talk to
5 him the next day, or a client calls, I just bought that
6 and that for you, I just sold that and that for you.

7 I travelled yesterday night with one of my
8 clients who goes on the same train, and I spoke to
9 him going back in the car, my wife was picking me up,
10 and I said "I bought 100 shares today for you", I said
11 to my wife, "and I bought 100 shares for you" to my
12 client because he happened to be sitting in my car.

13 Q Do clients from time to time complain about
14 the security you have purchased?

15 A I don't think they just complain about a
16 security I have purchased. Of course, when a company
17 goes bankrupt, they may ask me rightfully why did you buy
18 it and I will explain it to them, but I don't remember that
19 anybody would call me after I make a purchase and would
20 question me on it.

21 I had one client, and I got rid of him fast.
22 He was a psychiatrist and he called me the next day and
23 he said "Why did you buy it?" I said "Listen, you ask
24 your patients these questions, but you can't ask me. It
25 is up to me. I think I know what I am doing, and if you

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ask me as a psychiatrist why I buy a stock"--he said "I want to know why did you buy it?"

As a psychiatrist he asked me "Why did you buy it?" I said "I don't have the time for you."

Q Also when securities go down in price, do clients tend to call and say "Hey, why did you buy this security?"

A Not really. It sounds odd, but I am basically left alone because people more or less trust me, notwithstanding a performance which certainly has not been good, and I must say my performance has been through the years not that good, but always better than the average. I have done always a little bit better every year than the averages, and I have been able to prove that to my clients.

Q Have you ever received any gratuity or remuneration from any brokerage firm for any purpose?

A Never. I wouldn't take it.

Q In opening accounts with various brokerage firms in 1973, what was the criteria you used in determining the brokerage firm?

A A, the credibility of the brokerage firm as such. Although that came in second place as long as I am insured with every stock brokerage firm for \$50,000 and

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all
almost none of my accounts are below \$50,000, so I don't care so much if the broker is not A-1, although I wouldn't like to see brokers going down, although I must say Goodbody went down and I had almost 100 accounts with Goodbody.

Blair & Co. went down and I had about 50 accounts with Blair & Co.

Good firms went down and I suffered with it because the clients really said to me why did you put your money there. I said I don't know where to put my money any more, but as long as you are insured, as long as you are not losing, don't worry about it.

My criteria is based on two important considerations. No. 1, service. No. 2, commissions which are lower for over-the-counter stocks for myself and clients at two brokers.

Q What brokers charge lower commissions?

A Heine, Fishbein & Co., I have a special arrangement for any purchases and sales in the over-the-counter market. Commissions are negotiated.

Q Who is the other brokerage firm?

A The other brokerage firm is Herzog & Co., where I am still paying the old commission rate on over-the-counter securities.

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3 You have to bear in mind that 80 per cent
4 of my business is over-the-counter and I think I save
5 my clients a tremendous amount of money in doing this.

6 Q Let me ask you when you made this arrangement
7 with Heine, Fishbein to negotiate commission rates on
8 over-the-counter securities.

9 A When?

10 Q Yes.

11 A Two years ago.

12 Q Is there a written document?

13 A No. I am fighting with them every day on
14 commissions, but I basically get it my way because I am
15 an important client for them.

16 Q Could you tell us what the negotiated commissions
17 usually are on transactions executed through Heine,
18 Fishbein?

19 A I say if I buy 100 shares at 20 and the
20 normal commission would be \$30, I say I am not going to
21 pay more than \$20.

22 Q And they O.K. this?

23 A Sometimes it will be \$22, but basically yes,
24 they O.K. it.

25 Q What do the confirmations show with respect to
commissions?

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2 A Just 100 shares bought at \$20 plus \$22
3 commission so the man is billed \$2,022, instead of
4 \$2,030.

5 Q Is Heine, Fishbein a member of the New York
6 Stock Exchange?

7 A Most certainly.

8 Q And the American Stock Exchange?

9 A Most certainly. They are not allowed to do
10 this, by the way, on the New York and the American Stock
11 Exchange, but they are allowed to do this on over-the-
12 counter securities.

13 MR. BLOCK: Off the record.

14 (Discussion off the record.)

15 Q Did you have accounts in 1973 for your clients
16 at Shaskan & Co.?

17 A In 1973?

18 Q Yes.

19 A Most certainly.

20 Q Approximately how many of your clients had
21 accounts at Shaskan in 1973?

22 A Before Shaskan went into bankruptcy, or whatever
23 they went into, liquidation I think--

24 Q When was that, by the way, just to keep the
25 record straight?

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2 A I would say it was in April-May 1973.

3 At that time I had still all my accounts at
4 Shaskan & Co.

5 MR. ZIVYAK: Off the record.

6 (Discussion off the record.)

7 Q Mr. Polak, what is your best recollection as
8 to when Shaskan went into liquidation?

9 A June or July of 1973.

10 I estimate that I had about 60 accounts at
11 Shaskan & Co.

12 Q How did you determine which of the accounts
13 should be opened at Shaskan & Co.?

14 A Again, availability of money, size of the
15 account. If I had a \$3,000 account or \$5,000 account,
16 I generally did not open an account at Shaskan. I used
17 Shaskan as a secondary broker.

18 Q What does that mean?

19 A I am concentrating my accounts with two major
20 brokers. One is Heine, Fishbein. Two is Herzog & Co.
21 Then comes Drexel Burnham and then came Shaskan.

22 Q Did you have larger accounts with Shaskan or
23 smaller accounts?

24 A I would say part of my larger accounts were
25 at Shaskan & Company.

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Q Did Mr. Bartels service all of your accounts
at Shaskan?

A Yes, he did.

Q Did you ever receive from Mr. Bartels any
gratuity or remuneration for any purpose?

A Nothing.

Q Any gift of any sort?

A Nothing. I would say two years ago he sent
me at Christmas a fruit package. Not this year.

Q Did you assist your clients in the actual
opening of the accounts?

A Yes.

Q What specifically did you do for the client in
opening the account?

A When I open an account I ask Shaskan, to
take Shaskan as an example, to send me all the forms.
I fill them in as much as I can. I send them to the
client and tell them "Please fill out whatever is missing.
Sign the limited power of attorney where marked. Return
everything to me and I will then forward it to the
broker."

Q I think you testified before that you have
complete discretionary authority with respect to all
your accounts.

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2 A No. I have limited power of attorney to
3 buy and sell, yes.

4 Q That's what I meant, but that is with respect
5 to all your accounts?

6 A Yes.

7 Q Do you handle any accounts where it is done on
8 a solicited or recommended basis?

9 A Rarely. Maybe I have one or two accounts who
10 just tell me "If there is something special give me a
11 ring."

12 I don't prefer these accounts, but I have a
13 few. None of these, by the way, are involved in the
14 Teltronics situation.

15 Q Prior to, let's say, January 1973, did you have
16 any business dealings with Shaskan & Co., other than the
17 ordinary purchase and sale of securities?

18 A None. I am thinking that they asked me to be
19 their representative on the board of Continental Hosts as
20 a director, which I consented to, but which was completely
21 fouled up by them.

22 Q In what way?

23 A Continental Hosts did not want a Shaskan rep-
24 resentative on the board. When I came to the meeting
25 that I was going to be elected a director, they more or

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2 less threw me out.

3 Q Did you request either Mr. Bartels or anybody
4 at Shaskan to obtain that appointment for you?

5 A No. They asked me. They asked me. They
6 wanted somebody on that board. They had brought out
7 Continental Hosts. I had quite a lot of stock in it.
8 They knew I was dissatisfied with a lot of things. They
9 said why don't you go on the board?

10 I said fine, I am willing to do it, because I
11 think the company needs help. Then they requested
12 officially Continental Hosts to take me on the board.
13 They never got an answer on that.

14 I went to the meeting and was refused. They
15 subsequently got the SEC to intervene, and then they
16 went bankrupt, which was the end of this.

17 Q Did you have any accounts in January of 1973
18 at Shaskan where you had a beneficial interest?

19 MR. ZIVYAK: Do you understand that
20 question?

21 THE WITNESS: Yes. I am thinking.

22 A If you consider the Damaco Venture Capital
23 Fund via via via you can create a beneficial interest.

24 Q But otherwise you don't have any interest in
25 any company?

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A No. I was thinking of the Damaco Co. where some
of my family has an interest in Damaco Capital Venture
Fund where you could create an interest somewhere.

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Q Did you have any business dealings with
Mr. Bartels other than his role as your account executive?

7

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A You mean outside of the securities business?

9

Q Outside of the execution of purchase and sale
transactions.

10

11

A He offered me some private placements and I
participated in one where I lost \$20,000. Would you call
this outside transactions?

12

13

Q Any other transactions?

14

A No.

15

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18

MR. BLOCK: I would like to mark as
Defendants' Polak Exhibit 3 for identification a
list of names and we will give it to you to identify
in a minute.

19

20

21

(A list of names marked
Defendants' Polak Exhibit 3
for identification, as of this
date.)

22

23

A These are clients who at one time owned or
still own Teltronics, yes.

24

25

Q Did each of the people listed on Defendants'
Exhibit Polak 3 for identification have accounts at

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Shaskan & Company?

A No. Not all of them.

Q Why don't you show me which ones do, or did.

A I have to mark them and I have to go through it.

Q Go through it, but don't mark it.

A I would say the major part of that, yes have or had an interest. I even can't find anybody who did not. I think they all have accounts at Shaskan & Company, yes.

Q Did each of them purchase their Teltronics stock through Shaskan & Company?

A Through Shaskan & Company on my say-so.

Q In other words, you purchased the shares for them?

A I ordered it for them, yes.

Q Mr. Polak, why don't you tell us when and under what circumstances you first heard or learned of Teltronics?

A As usual when Shaskan comes out with a new issue they are sending me a so-called red herring, which is a preliminary prospectus. I then study the red herring and discuss with the salesman, or whoever is in charge, whatever I think about it and the same thing happened, I don't know exactly when, but I received the

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red herring, I assume, in December 1972 and Mr. Bartels told me great things about Teltronics, about the industry, about the management.

This came at a time that I started to get a little bit weary on new issues at all and also on issues where the earnings were not there as of yet, but he more or less was able to convince me that this was going to be a great success and that I should take this issue for each account where I had money and subsequently I told him that I would go in for 10,000 shares.

MR. BLOCK: Off the record.

(Discussion off the record.)

Q When you spoke to Mr. Bartels, was this on the telephone or in person?

A This was on the telephone, yes.

Q Did you have one conversation or more conversations with Mr. Bartels?

A Several conversations.

Q Have you told me everything now that he told you in those conversations?

A I do remember comparing Teltronics with National Telephone, an issue which I had had and which I had money in. I do remember that Mr. Bartels told me

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2 that Teltronics had much better management and would be
3 much bigger than National Telephone soon.

4 Having had a good experience with a stock of
5 this type, I more or less was sold to the idea that this
6 company could make it well.

7 Q You say stock of this type. What was your
8 understanding of the business of Teltronics in
9 December 1972?

10 A It was a telephone service corporation, a new
11 type of saving money in telephone equipment, and assuming
12 management was as good as Mr. Bartels stated, this company
13 could not only make it, but could be a major factor in
14 this whole industry.

15 Earnings expectations were given to me
16 already there that this company could earn 50¢ to a dollar
17 a share in the first year of operation as a public
18 company, and on that basis I thought that the company,
19 in an industry which gave a ratio--quite a good ratio
20 to companies like that--was cheap at \$10.

21 Q Again, I didn't really follow what your
22 understanding of the business of Teltronics in 1972 was.

23 A Telephone equipment, servicing, and saving
24 money in putting in telephone equipment in private
25 customers.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

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1
2 Q Subsequent to your discussions with Mr. Bartels,
3 did you talk to anyone from Teltronics?

4 A No.

5 Q Did you do any further investigation of Tel-
6 tronics other than speak to Mr. Bartels?

7 A No. I relied completely on the prospectus,
8 and I must say that a prospectus is a beautiful
9 instrument for an investment advisor because it should
10 give anything on the company and its principals in its
11 entirety. I have been involved myself in underwritings
12 and as such I feel that a prospectus is a beautiful
13 instrument which gives you almost anything you need.

14 Q So I take it prior to January of 1973 you
15 didn't speak at all to anybody from Teltronics.

16 A No.

17 Q Could you tell me the date of your first contact
18 with anybody from Teltronics?

19 A I would say the annual meeting.

20 Q Which was May 18?

21 A Yes, May 18, 1973.

22 Q So prior to that time the only people
23 you discussed Teltronics with, as I understand it now,
24 was Mr. Bartels?

25 A Yes.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

93

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2

Q Did there come a time when you got--

3

A I discussed it internally with my son.

4

Q That is Tony Polak?

5

A Tony Polak, that's right.

6

Q Did Mr. Polak, your son, the younger Mr.

7

Polak, discuss Teltronics with anybody from the company?

8

A No.

9

Q Did he discuss it with Mr. Bartels?

10

A He was on the telephone most of the times when

11

I talked with Mr. Bartels. He may have talked with

12

Mr. Bartels too. I don't know.

13

I don't think there were really separate talks about it, if at all. We talked amongst the three of us. My son participates generally in major talks I have with brokers.

14

15

16

17

Q Did you receive a prospectus at the time?

18

A Yes, I did.

19

Q Not a red herring, the prospectus?

20

A I got a preliminary prospectus, and, of

21

course, I got about 47 prospectuses because I bought

22

it for 47 accounts and for each account where I buy it

23

I got a prospectus.

24

Q Did you take that prospectus and send it to your

25

clients?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

94

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BY MR. BLOCK:

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A No, I didn't have to, because my clients got the prospectus too. They got the original confirmation of the purchase with a prospectus. I got a duplicate confirmation of the purchase of the client with the prospectus.

MR. BLOCK: Let's mark the prospectus as Defendants' Exhibit Polak No. 4 for identification.

(Prospectus for Teltronics marked Defendants' Exhibit Polak 4 for identification, as of this date.)

Q Mr. Polak, I show you what was just marked as Defendants' Polak 4 for identification and I ask you if this is the prospectus you just referred to.

A This is the prospectus I referred to.

Q And I take it you read the prospectus from page to page.

A Yes, I did.

Q Front to back, right?

A Yes.

Q Did you, or your son, or anybody at Equity Interest, Inc. analyze this prospectus?

A It depends on what you call analyzing. I can analyze and I can take a whole day in analysing it, and

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

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I can read something in a half an hour and I can read it in two hours. I read the prospectus as good as I could after I made my decision.

I would say my decision to buy the stock was based on the preliminary prospectus, which I read well.

I do remember comparing the prospectus with the preliminary prospectus. I think there were some discrepancies, but I don't recall that any more, but basically my reading was done already--my decision was made before I got the prospectus already. That was based on the preliminary prospectus.

Q Did you have any questions after reading the preliminary prospectus?

A May I have another look at it?

Q Yes.

(Document handed to witness.)

A Do you have a preliminary prospectus here too or not?

Q Not with me, no.

A I would like at our next meeting the preliminary prospectus to be there because then I might be able to answer this better.

I do remember that I was questioning the three-month statement in this prospectus, which was, I think, not

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

96

1
2 in the preliminary prospectus, but again I don't have the
3 preliminary prospectus.

4 Q We will try and arrange to have the preliminary
5 prospectus at the next session.

6 A I would like to have that and then I will
7 answer you that.

8 Q Can you tell us what you did other than
9 that?

10 A Read it as good as I could, going into the
11 background of all the people. One important thing was
12 I knew the lawyer of the company.

13 Q Who is that?

14 A Jeffrey A. Moross and I asked Jeff, who I
15 knew from another relationship, what he thought about it,
16 and he talked very highly about the company and its
17 principals.

18 Subsequently I was amazed to learn at the
19 annual meeting that Mr. Moross was not with the company
20 any more four months after going public.

21 Q How did you know Mr. Moross prior to this
22 offering?

23 A He was a lawyer in a firm in which I made a
24 private placement.

25 Q What firm was that?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

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2 A Gemini Rising which subsequently went into
3 Chapter 11.

4 Q Did you have a discussion with Mr. Moross
5 sometime prior to your purchases of Teltronics stock?

6 A No.

7 Q When did you first speak to him about Teltronics?

8 A I think maybe one or two weeks after they went
9 public.

10 Q Was this an in-person meeting?

11 A It was a meeting nothing to do with Teltronics.

12 Q Was this a face-to-face discussion?

13 A I said "I saw your name, I see that you are a
14 lawyer of Teltronics. I just put money in there."

15 He said "I think you will make a lot of money
16 with it."

17 I said "What do you think about it?"

18 He said "Very highly."

19 Q Did you prepare a list of questions on your
20 reading of the preliminary prospectus to ask anybody?

21 A No. I would say most of the information given
22 to me was given to me by Mr. Bartels who was an astute
23 old-time investor and knew what I wanted to know and gave
24 me what I wanted to know.

25 Q Is it fair to say that you relied on Mr. Bartels

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EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

98

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2 in making your decision to purchase the stock?

3 MR. ZIVYAK: I will object to the form of
4 that question and direct the witness not to answer.

5 Q Let's ask it this way.

6 Could you tell us what you relied on in making
7 the decision to purchase the stock?

8 MR. ZIVYAK: In that the word "rely" or the
9 word "reliance" is such a key word and has been
10 construed as having so many meanings by the Courts
11 in the framework of securities litigation, this line
12 of questioning is a line that I am going to direct
13 the witness not to answer.

14 MR. BLOCK: We ought to mark that, because
15 we will need a ruling on that.

16 Off the record.

17 (Discussion off the record.)

18 BY MR. BLOCK:

19 Q Were you satisfied that what Mr. Bartels told
20 you had answered any questions you might have had?

21 A I more or less was satisfied. I think one of
22 my main things which I looked upon immediately in the
23 prospectus is this company was not going into manufacturing
24 and I was pleased to see they were not going into
25 manufacturing themselves because I saw a lot of clouds on

A-180
EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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the horizon already in 1973 and I did not want to go
3 into a big new manufacturing concern.

4

I liked what I read about it.

5

6

Q You mean the fact that they were just in
service and not in manufacturing their equipment?

7

8

A That's right, they are not going into
manufacturing.

9

10

Q Did you raise that question with Mr. Bartels,
the possibility that they might go into manufacturing?

11

12

A No, I didn't have to, because it stated very
clearly that they were not going to.

13

14

Q It said they were not in it?

15

16

A They were not in it, that's right.

17

Then I looked into the use of the proceeds and
I couldn't find nowhere any mentioning of manufacturing
facilities, so I wasn't worried about that.

18

19

20

Q Did you prepare any written report or analysis
of Teltronics based on your discussions with Mr. Bartels
and your review of the preliminary prospectuses?

21

A No, I did not.

22

23

24

Q Is there any writings in your file prepared by
you, or anybody from Equity Interest, Inc. concerning
Teltronics?

25

A Nothing.

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EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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Q You prepared no writings at all?

A No. May I just say that in these months new issues came out by the day and I went into almost any new issue coming out for a long period with success, for a short period with disastrous results, but I more or less relied on completely reading the prospectus well and the additional information given to me by the broker who issued the stock in question and Teltronics was the same way.

I read the prospectus. I liked what I read. It was a complete new industry, which could be--in fact, Mr. Bartels told me and in that way I relied on him--that this industry was going to be the biggest up-coming industry in the United States in the next two or three years and I bought it, and, in addition to this, I read what I found in the prospectus, and could see if this industry was going to be this good this company had to succeed, assuming the management was as good as was told to me.

Q Other than reviewing the prospectus and speaking to Mr. Bartels, did you do anything else to investigate the Teltronics business prior to making purchases of stock?

A No.

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EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak .

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Q So that constitutes the totality of your
investigation?

A Yes.

Q Did you review the financial segments of this
prospectus?

A Yes, I did.

Q And as an accountant, I take it, you understood
what you read?

A I did understand.

MR. BLOCK: Off the record.

(Discussion off the record.)

MR. BLOCK: I would say this is a good time
to break.

(Whereupon, at 2:30 p.m., the examination
was adjourned.)

Subscribed and sworn to before me
this ____ day of _____ 19 ____.

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EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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C E R T I F I C A T E

STATE OF NEW YORK)
 : ss
COUNTY OF NEW YORK)

MYRON GEIST, a Shorthand Reporter and
Notary Public within and for the State of New York,
do hereby certify:

That JACK POLAK, the witness whose
deposition is hereinbefore set forth, was duly sworn
by me and that such deposition is a true record of
the testimony given by such witness.

I further certify that I am not related
to any of the parties to this action by blood or
marriage and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 31 day of December, 1974.

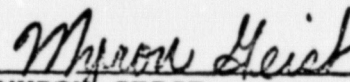

MYRON GEIST

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

December 24 1974

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I N D E XWITNESSDEFENDANTS'EXAMINATION BYPAGE

Jack Polak

Mr. Block

3

EXHIBITSDEFENDANTS'
POLAKFOR IDENT.

1	Form trading authorization	10
2	Certificate of limited partnership of Damaco	41
3	A list of names	88
4	Prospectus for Teltronics	94

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EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

104

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----X
:
DAMACO VENTURE CAPITAL FUND,
a Limited Partnership, :

Plaintiff, :

-against- :

TELTRONICS SERVICES, INC., SHASKAN :
& CO., INC., CLAUDE C. CONTI, :
EDWARD M. BEAGON, THOMAS R. RAMSEY, :
DAVID A. LaCONTI, GERARD F. HUG, :
GILBERT MONICK and JEFFREY A. MOROSS, :

Defendants. :

-----X

Continued deposition of plaintiff

DAMACO VENTURE CAPITAL FUND by JACK POLAK,
taken by defendants pursuant to notice at
the offices of Weil, Gotshal & Manges, Esqs.,
767 Fifth Avenue, New York, N. Y. 10022 on
March 27, 1975 at 10:30 a.m., before Michele
Fischer, a Certified Shorthand Reporter and
Notary Public of the State of New York.

Commerce Reporting Company, Inc.
Forty One East Forty Second Street
New York, New York 10017
CERTIFIED SHORTHAND REPORTERS (212) MU 2-7790 A COMPLETE REPORTING SERVICE SINCE 1935

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

105

APPEARANCES:

BERMAN & ZIVYAK, ESQS.
Attorneys for plaintiff
450 Park Avenue
New York, N. Y. 10022
BY: IRA W. BERMAN, ESQ.
of Counsel

WEIL, GOTSHAL & MANGES, ESQS.
Attorneys for defendants
767 Fifth Avenue
New York, N. Y. 10022
BY: DENNIS J. BLOCK, ESQ.
-and-
ANDREW H. TANANBAUM, ESQ.
of Counsel

oOo

JACK POLAK, having
been previously duly sworn, resumed the stand and
testified further, as follows:

EXAMINATION (Cont'd.) BY MR. BLOCK:

Q Mr. Polak, at the last deposition you testified
about a fee schedule which counsel has presented to me, and
I would like to mark as Exhibit 5, and ask you if this is
the fee schedule that you previously mentioned?

(Fee schedule marked Defendants'
Exhibit 5 for identification
(Polak) as of this date.)

MR. BERMAN: We prepared that.

THE WITNESS: No, that is mine; that is
my fee schedule.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 106

2 Q Is that your fee schedule, Mr. Polak?

3 A That's right.

4 Q Could you just explain to me what it means? I
5 couldn't follow it.

6 A If a client at the end of the year has an equity
7 with me to the amount mentioned in the first column, I will
8 charge him variable amounts, depending on the amount of
9 time spent on the account. So a \$10,000.00 account will be
10 charged from \$200.00 to \$300.00.

11 Q And this fee schedule is given to a client at the
12 beginning, when he becomes your client?

13 A Yes.

14 MR. BLOCK: I would like to also mark as
15 Defendants' Exhibit Polak 6 for identification what is
16 entitled "Teltronics Services, Inc.," a list of names
17 and transactions next to the names; and it is entitled
18 Exhibit A to answers to interrogatories.

19 (Document entitled "Teltronics
20 Services, Inc.," list of names
21 and transactions, Exhibit A to
22 answers to interrogatories,
23 marked Defendants' Exhibit 6
24 for identification (Polak) as
25 of this date.)

23 Q Mr. Polak, I show you what we have marked as
24 Defendants' Exhibit Polak 6 for identification, and ask you
25 if you can identify that document?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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A I can.

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Q What is that document?

4

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6

7

A It is a schedule of Teltronics Services, Inc., as it is listed in my books; and the stocks show a, all transactions in that particular stock, all purchases and all sales from the first date I started to buy the stock.

8

9

10

Q And other than what is contained on Exhibit 6 for identification, you or your clients had no additional transactions in Teltronics stock?

11

12

A Unless they bought on their own, which I doubt very much, no.

13

14

Q Who prepared Exhibit 6 for identification?

A My secretary.

15

Q And what is her name? .

16

MR. BERMAN: Off the record.

17

(Discussion off the record.)

18

19

20

21

A Several people have written in this sheet. So I would say almost anybody working in my office has worked on this sheet. Purchases have been entered by other people, sales have been entered by other people.

22

23

The people involved have been Mrs. Sally Bronstein, Mrs. Toni Soep, Anthony Gerald Polak and myself.

24

25

Q Could you tell me if all of the persons whose names appear on Exhibit 6 for identification purchased

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

108

1
2 Teltronics stock on the initial offering?

3 A Two of them bought one thousand shares; two lots
4 of five hundred shares each.

5 MR. BLOCK: Could you read the answer
6 back, if you got it?

7 (Whereupon, the reporter read back the pre-
8 vious answer.)

9 Q Could you tell me the purchasers of those two
10 lots?

11 A They were, one, Juan Metzger; and five hundred
12 shares for Bruce R. Rosow.

13 Q Do you know when those transactions took place?

14 A They were bought on January 11, 1972, and were
15 almost immediately sold again on January 16, 1973--excuse
16 me. They were--correction--they were bought on January 11,
17 1973 and they were sold on January 16, 1973.

18 Q And was there a profit in those transactions?

19 A No. There was a loss of about \$550.00 in each
20 of those accounts.

21 Q Could you tell me who Mr. Metzger is?

22 A Mr. Metzger is a, one of my most important clients
23 He is the president of Dannon Yogurt, a subsidiary of
24 Beatrice Foods.

25 Q And could you tell me who Mr. Rosow is?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK1
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Polak

109

A Mr. Rosow is my biggest client, and is--has a wholesale firm in liquor and drugs in West Hartford, Connecticut.

Q Are either Mr. Metzger or Mr. Rosow limited partners in Damaco Venture Capital Fund?

A Yes, they are.

Q Are they both?

A Yes, they are.

Q Were these discretionary accounts, the Rosow and Metzger?

A All my accounts are discretionary accounts.

Q Including those two?

A Most certainly.

Q Did you discuss the purchase of Teltronics stock with either of those individuals prior to making the purchase?

A No.

Q Did you discuss the sale of Teltronics stock for those two accounts prior to making the sale?

A No.

Q Could you tell us the basis of the purchase for those two accounts on January 11th, in the open market?

MR. BERMAN: I am going to object at this time to any discussion with regard to purchase in the

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 110
2 after market. We are only talking here about the
3 qualifications of Damaco Venture Capital Fund to act
4 as class representative. And a subsequent market
5 activity which may have taken place with one or two
6 individual clients with Mr. Polak has absolutely no
7 bearing whatsoever on this deposition.

8 MR. BLOCK: It would seem to me this is
9 directly related to the question of Mr. Polak's capa-
10 city to represent the class, since there could be in-
11 consistent interests involved in this matter.

12 And it seems to me that purchases and sales
13 that differ from the normal purchases and sales dis-
14 closed on this sheet would be very relevant to that
15 point.

16 MR. BERMAN: Well, I instruct the witness
17 not to answer the question.

18 MR. BLOCK: Why don't we just mark the
19 question, and we will get a ruling from the judge.

20 I might ask, are you going to object to all
21 my questions with respect to the individual purchases
22 of Teltronics stock--

23 MR. BERMAN: Probably.

24 MR. BLOCK: (continuing)-- and to their
25 subsequent sales?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 111

2 MR. BERMAN: Probably. It has got abso-
3 lutely no bearing on anything here. It is just a
4 fishing expedition to waste our time.

5 MR. BLOCK: That is your characteriza-
6 tion, Mr. Berman.

7 MR. BERMAN: Off the record.

8 (Discussion off the record.)

9 BY MR. BLOCK:

10 Q Mr. Polak, have you ever met anyone associated
11 with Teltronics?

12 MR. BERMAN: Want to give him a time and
13 a date as to before this lawsuit, after the lawsuit;
14 before the purchase, after the purchase?

15 MR. BLOCK: Prior to January 1973.

16 A No.

17 Q Subsequent to January of 1973, did there come a
18 time when you met somebody associated with Teltronics?

19 A I went to the annual meeting in, I think May 1973,
20 where I met management, I saw management, and subsequently
21 talked very briefly with some of them.

22 Q Was that on the day of the meeting?

23 A On the day of the annual meeting, yes.

24 Q And who specifically did you meet and talk to at
25 the annual meeting?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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MR. BERMAN: Off the record.

3

(Discussion off the record.)

4

A I questioned management at the meeting, and was answered by almost all principals from the dais. I don't recall that I had any subsequent real meeting with them. I said hello after that, and I think that was about what the meeting was about.

9

Q Do you recall the questions you posed to management during this meeting?

10

11

A Yes, I do.

12

13

14

15

16

17

18

19

20

Q Did you raise the possibility of your joining the board of directors during this meeting?

21

22

23

24

25

A No. There was no reason at all for that, because at that moment Joseph Buckman, the vice president of Shaskan & Company, was the representative of Shaskan & Company and was at that moment for me the representative of the public, who had put in money to Teltronics.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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Q Was the--

3

A (continuing) There was one additional thing which,

4

which thing was quite odd and where I didn't get a satis-

5

factory answer. That was that the lawyer who represented

6

Teltronics in the public offering, and was stated as such

7

in the prospectus, was not with the company anymore.

8

Q Who was that?

9

A Jeff Moross.

10

Q Do you know Mr. Moross?

11

A I refer to my previous deposition in which you

12

asked that question, and which I answered that.

13

Q When did you first meet Mr. Moross?

14

A I refer to my previous deposition.

15

Q Well, you didn't tell me how you first met Mr.

16

Moross the first time.

17

A I think I did.

18

MR. BERMAN: Off the record.

19

(Discussion off the record.)

20

Q Has Mr. Moross ever represented you in any capa-

21

city?

22

A No.

23

Q What firm was Mr. Moross associated with when you

24

knew him?

25

A I think it was Mergel, Stein.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

- 1 Polak 114
- 2 Q Is that Mr. Lesser's firm; Mergel, Stein, Burns,
- 3 Lesser and some other names?
- 4 A I don't think he is there anymore.
- 5 Q Is that Stanley Lesser?
- 6 A I don't know.
- 7 Q Do you know Mr. Lesser?
- 8 A No.
- 9 Q Have you ever been introduced to Mr. Lesser?
- 10 A Not as far as I know.
- 11 Q Do you know if Mr. Moross is a defendant in this
- 12 lawsuit?
- 13 A I think he is.
- 14 Q And did you direct your counsel to make Mr. Moross
- 15 a defendant in this lawsuit?
- 16 A No. I left that completely to my lawyer.
- 17 Q Do you know if Mr. Moross has been served with a
- 18 summons and complaint in this lawsuit?
- 19 A I have no idea.
- 20 Q Do you know if Mr. Moross--
- 21 MR. BERMAN: Off the record.
- 22 (Discussion off the record.)
- 23 Q Subsequent to the May meeting you have just spoken
- 24 of, did there come a time when you met personally with any
- 25 of the officers or directors of Teltronics?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

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2 A In July 1973 it suddenly turned out that manage-
3 ment was fighting. And as long as I still had a consider-
4 able interest in Teltronics, I was quite interested in, A,
5 what caused this fight; B, what would be the outcome for
6 Teltronics.

7 I received a letter from Claude Conti, and I re-
8 ceived a letter from the opposing group in management. And
9 as I had still a considerable amount of stock, and each side
10 wanted my vote, they both approached me to vote for them.

11 Q When you say "approached," how do you mean approach-
12 ed?

13 A As to the Conti group, I was approached by a law-
14 yer for Mr. Conti--I am trying to remember the name.

15 Q Is it Zucker?

16 A Mr. Zucker, right; because he has an office in
17 the same building I have, in the Lincoln Building. And I
18 had lunch with Mr. Zucker in the Lincoln Building.

19 Q Was this the first time you had ever met Mr.
20 Zucker?

21 A That was the first time I had met Mr. Zucker.
22 Mr. Zucker tried to convince me that I should vote
23 for Mr. Conti.

24 Q And around what date was this?

25 A Must have been in the middle of July 1973, around

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak

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2 the middle of July 1973.

3 Q And do you recall what Mr. Zucker said to you on
4 this occasion?

5 A It was more or less telling me how wonderful, what
6 a wonderful guy Mr. Conti was, although he may have made
7 some mistakes, and how bad all the other guys were. I don't
8 think anything of substance was given to me.

9 The only thing I learned from that meeting was
10 that the fight between Conti and all the others was not a
11 fight of July 1973, but that there had been fighting in
12 management for a long time prior to that already.

13 It disturbed me very much, as at the annual meet-
14 ing Mr. Conti and all the other officers of the company
15 gave a fantastic show of complete agreement in the company,
16 while at that moment fighting was already going on.

17 Q Did he tell you how far back the fighting had
18 gone on?

19 A He didn't.

20 Q Did you have any other meetings with Mr. Zucker?

21 A No other meeting; although I met him, of course,
22 at the famous special meeting from which--on July 23, 1973.

23 Q Do you recall how many shares you or your clients
24 held in mid-July 1973?

25 A I would say about five thousand shares, maybe mor

EXHIBIT A TO ELOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 117

2 But I would have to count it, if you would really like to
3 know.

4 MR. BERMAN: The list which is set forth
5 as Defendants' Exhibit Number 6 speaks for itself with
6 regard to that information.

7 Off the record.

8 (Discussion off the record.)

9 Q Mr. Polak, you mentioned earlier Joe Buckman, you
10 viewed him as the public representative.

11 Who was Joe Buckman?

12 A He was a partner in Shaskan & Company.

13 Q Did you know him before this meeting of May 1973?

14 A I know him, yes.

15 Q How do you know him?

16 A Because he has been introduced to me at some
17 occasions.

18 Q By who?

19 A Being a partner in Shaskan & Company, by my vice
20 president in Shaskan & Company, Mr. Stanley Bartels.

21 Q Do you know who Mr. Meyer Buckman is?

22 A I know Mr. Meyer Buckman the same way as I know
23 Joel. Meyer is the father, Joel is the son.

24 Q During, say December 1972 to June 1973, did you
25 speak with Mr. Joel Buckman or Mr. Meyer Buckman from time

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

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2

to time?

3

A Not at all.

4

Q Do you recall the circumstances under which you
met the Buckman's? Was it at a party?

6

A I met them once at a dinner which was given for
the president of the New York Stock Exchange, where Shaskan
invited me to sit at their table.

9

Q And did you go and sit at their table?

10

A I sat at their table. I think that was the only
social event in which I joined the Buckman's at all.

12

Q Do you recall when this time was?

13

A 1971 or 1972.

14

Q During the period, let's say from January of 1973
to June of 1973, did you discuss Shaskan & Company at all
with Mr. Bartels?

17

MR. BERMAN: Did you discuss Shaskan &

18

Company?

19

A What do you mean, "Shaskan & Company"?

20

Q Did you have any discussion about Shaskan with Mr.
Bartels?

21

22

MR. BERMAN: Want to rephrase the ques-
tion? Shaskan was the underwriter.

23

24

MR. BLOCK: Yes.

25

MR. BERMAN: You want to know if he

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
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2

discussed the underwriter with Mr. Bartels?

3

THE WITNESS: You mean how good Shaskan

4

was or--

5

MR. BLOCK: Right.

6

THE WITNESS: Off the record.

7

(Discussion off the record.)

8

A Yes, I did discuss the position of Shaskan with

9

Mr. Bartels, as some rumors were going through Wall Street
that Shaskan might be in difficulty.

10

11

Q Go ahead.

12

A And Mr. Bartels told me that, told me, more or

13

less, there were no problems.

14

Q When were thesd discussions; if you recall?

15

A April, May, June, July 1973.

16

Q Did there come a time when Mr. Bartels told you

17

that Shaskan was in financial difficulty?

18

A No. When he told me it was already, they closed

19

already.

20

Q You had no discussions with Mr. Bartels prior to

21

that time?

22

A No.

23

Q With respect to your discussions concerning Shas-

24

kan with Mr. Bartels, did you have any of these discussions

25

prior to January 1st, 1973?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
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A Most certainly not.

3

4

Q Did Mr. Bartels ever tell you that Shaskan had a
good reputation as a market maker in issues that it took
public?

5

6

7

8

9

A I don't think he specifically told me so, but my
experience through the years with Shaskan & Company had
been reasonably good; so I really was hoping that my good
experience would continue.

10

11

Q Did Mr. Bartels tell you prior to January 9, 1973
that Shaskan would be a market maker in Teltronics stock?

12

13

A I don't recall that he told me, but--

14

MR. BERMAN: That is the question he asked
you, Jack; did he tell you? The answer is, he didn't.

15

16

Q Well, did you learn some time prior to January
20, 1973 that Shaskan would be a market maker in Teltronics
stock?

17

18

A Most certainly.

19

Q And how did you learn that?

20

21

A Because I am--because in any issue where I have a
major position, I call in the morning to find out who has
the pink sheets.

22

23

24

25

Q If I tell you for the record that Shaskan didn't
become a market maker subsequent to January 20, 1974, would
that--

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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2

A 1973.

3

Q (continuing)-- would that refresh your recollection as to when you learned that Shaskan would be a market maker for Teltronics stock?

6

THE WITNESS: Off the record.

7

(Discussion off the record.)

8

Q Did you have any knowledge prior to the time Shaskan became a market maker that they would be a market maker for Teltronics stock?

10

11

A I counted them to be a market maker.

12

Q And what did you base that on?

13

A Experience.

14

Q Experience with Shaskan?

15

A With Shaskan and best issues.

16

Q Did you have any discussion with Mr. Bartels prior to January 9, 1973 wherein he indicated to you that the over-the-counter market price of Teltronics stock would be over ten dollars a share in the after market?

20

A No.

21

Q Did you have any discussion with Mr. Bartels concerning what the after market for Teltronics stock would be like prior to January 9, 1973?

22

23

24

A I may have asked him if it's going to be a premium and he may have answered me, I don't know.

25

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Q Do you recall if he said this was a so-called hot
issue?

4

A No.

5

6

Q Did he indicate to you that there would be a
premium in the trading of Teltronics stock?

7

8

MR. BERMAN: He has already answered that,
that he may have discussed it.

9

10

MR. BLOCK: I am trying to refresh his
recollection.

11

A I can't answer that.

12

13

14

15

Q Did Mr. Bartels indicate to you prior to January
9, 1973 that there would be no chance for a loss in Tel-
tronics stock because it would trade above its offering
price in the after market?

16

17

18

MR. BERMAN: He already answered that
question that he had no discussion about the price of
the stock in the after market with Mr. Bartels.

19

Q Is that true?

20

A That is true.

21

Q You adopt that answer?

22

A Yes.

23

24

25

Q Could you tell me if any report was prepared by
yourself or anyone at Equity Interest concerning Teltronics
prior to January 9, 1973?

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1 Polak 123

2 A I answered that in my previous deposition, in the
3 negative.

4 Q You didn't indicate whether there was any sort
5 of analysis made prior to the purchase.

6 A You asked me before if anything was put in writ-
7 ing, and I told you no.

8 Q Have you ever visited the office of Teltronics?

9 A Never.

10 Q And prior to July 1973, had you ever met with any
11 of the officers or directors of Teltronics?

12 A Yes; at the annual meeting in May 1973.

13 Q Well, did you ever meet face to face with any of
14 the officers?

15 MR. BERMAN: He has already answered that;
16 and he said the first time he met them was at the
17 annual meeting in May of 1973.

18 Q Did you ever have a private discussion--

19 MR. BERMAN: He has already answered that,
20 and he said no.

21 Q Subsequent to May 1973, did you ever have such a
22 discussion with any officer or director of Teltronics?

23 A No; unless you want to broaden this into tele-
24 phone calls.

25 Q I certainly do.

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MR. BERMAN: The answer is, he said he

3

didn't have a face to face meeting, but there were

4

evidently some telephone calls.

5

Q Could you tell me when your first telephone conversation took place with any officer or director of Tel-

6

7

tronics?

8

MR. BERMAN: Was it subsequent to the May

9

annual meeting?

10

A Not before the May meeting.

11

MR. BERMAN: I think he has already testi-

12

fied that right after the May meeting a proxy fight

13

evidently took place, and a special meeting was held.

14

It was at that time that he received telephone calls from evidently the dissident group and the insurgent group.

15

16

17

MR. BLOCK: Of course. I am asking him

18

now when those telephone calls took place and who he

19

spoke to.

20

MR. BERMAN: I assume he can tell you it

21

was between May and July he spoke to them on the tele-

22

phone call. You don't have to give the exact date.

23

There is no way you can give the exact date.

24

THE WITNESS: No, I don't think so.

25

A I talked with management at the special meeting

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of stockholders in which the insurgent group won.

And I think my next call was in the fall of 1973, maybe earlier, in which I asked some questions as to putting a director on. And I felt that the public, which had put a tremendous amount of money into the company, was not represented on the board. And at that special meeting of stockholders in July, I expressed my strong viewpoint that the public should be represented; and the then new management promised me that a representative was going to be elected.

Q At this meeting, did you suggest that you might be a representative of the public on the board?

A I am not sure if it was at that meeting or at a later date.

I have at a certain moment suggested that I would be willing to serve, assuming that what I would find in the company would be satisfactory to me.

Q And who did you say this to?

A To the then president; Ed Beagon, I think.

MR. BERMAN: We are talking about a telephone call now; is that right?

THE WITNESS: I talked with Ed Beagon.

MR. BERMAN: Let the record reflect that Mr. Polak did not state that he spoke between May and

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
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July; evidently the telephone calls took place subsequent to July.

3

4

Q Did you have any telephone conversations with management prior to July; subsequent to May and prior to July?

6

7

A As far as I recall, no.

8

9

Q Can you tell me when you had your first telephone conversation with anyone from Teltronics?

10

A It must be in September 1973.

11

Q Who did you speak to?

12

A As far as I can recall, Ed Beagon.

13

14

Q Do you recall what you told Mr. Beagon and what he said to you?

15

16

17

18

A I asked him how things were going. And he told me that everything was under control, which later turned out not to be true; that they were talking with a new investment banker who subsequently would come on the board.

19

20

And he just gave me a general talk of what had happened and what transpired, and I left it at that.

21

22

Q Did you on this occasion ask him if you could be on the board of directors?

23

A We may have discussed that.

24

Q Do you recall what--

25

A I would say this. I wanted the public to be

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
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represented; and I said, if you can't find anybody, I might
3 be willing to serve as such. But I want somebody, and it
4 doesn't have to be me.

5

6

Q Did he indicate his thoughts on you being a
director?

7

8

A He was not positive, he was not negative. He was
really--he just left it at that.

9

10

11

And I didn't bother on it either, because I saw
too many problems, really, on the horizon there, that I was
really not that keen, either.

12

13

Q Did you ask for a consulting fee from Teltronics,
in the meantime?

14

A Never.

15

16

Q Did you tell Mr. Beagon that you were a consultant
to several other public corporations?

17

18

A I don't think so. I don't think we were in that
stage at that moment.

19

20

21

Q Going back in time to January of 1973, could you
tell us the basis for your determination to invest in Tel-
tronics stock?

22

A I thought we went through that.

23

24

MR. BERMAN: That has all been answered in
your prior deposition.

25

Q In other words, you have no additional reasons for

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
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1 Polak 128

2 purchasing either for your own account or for the accounts
3 of your clients, Teltronics stock, other than you previously
4 told me; is that correct?

5 A One addition. A report which was submitted to me,
6 I think prior to that time, which you may make part of the
7 record, on the Inter-Connect industry, which was sent to me
8 by Mr. Bartels.

9 MR. BLOCK: Could we mark as Exhibit--

10 MR. BERMAN: We were going to offer that
11 as a plaintiff's exhibit, frankly, but you can take it;
12 it is immaterial.

13 MR. BLOCK: (continuing)-- Defendants'
14 Polak Exhibit 7 for identification what purports to be
15 a report by Preston Pumphrey & Company, Inc.; appar-
16 ently it is not dated, entitled "The New Telephone
17 Industry, Inter-Connect."

18 (Report by Preston Pumphrey &
19 Company, Inc., undated, entitled
20 "The New Telephone Industry,
21 Inter-Connect," marked Defen-
22 dants' Exhibit 7 for identifica-
23 tion (Polak) as of this date.)

24 Q Mr. Polak, I show you what we have marked as
25 Polak Exhibit 7 for identification, which on page 8 is dated
December 1972; and ask you if you can recall whether or
not you received this document from Mr. Bartels prior to

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January 1973?

3

A As far as I recall, I received this prior to
4 Teltronics coming out with its issue.

5

Q And do you recall how you came to receive this
6 document?

7

A Mr. Bartels thought it should broaden my knowledge
8 about the Inter-Connect industry; and would make it easier
9 for me to understand Teltronics' business, and the possi-
10 bilities of Teltronics in this industry.

11

Q Did you ask him to give you that document--

12

A No.

13

Q (continuing) -- or did he send it to you, unsolici-
14 ted?

15

A He sent it to me unsolicited.

16

Q Did you discuss the contents of that document
17 with Mr. Bartels?

18

A Not really. I did say, it looks like you are
19 right, that this industry, as such, is a very promising
20 industry.

21

Q Did you discuss that document with anyone from
22 Teltronics?

23

A Never.

24

Q Did you ever ask anyone from Teltronics for any
25 documents or any pamphlets or anything else concerning the

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
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Polak

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Inter-Connect industry?

3

MR. BERMAN: I think he has already testi-

4

fied, the only conversation he ever had with anybody

5

from Teltronics was at the annual meeting, the special

6

meeting and the telephone calls some time in Septem-

7

ber; so he has already answered the question.

8

Q Do you adopt your counsel's answer?

9

A Unless you want--no, I never asked Teltronics for

10

anything.

11

MR. BERMAN: However, let the record in-

12

dicate that he has certain documents that were given out

13

at the annual meeting of Teltronics in May of 1973, .

14

which purport to be information concerning the company

15

and the industry.

16

MR. BLOCK: Well, those will speak for

17

themselves, if you want to make them exhibits.

18

MR. BERMAN: At some subsequent time I

19

assume we will introduce them into evidence.

20

Q Mr. Polak, I note that Exhibit 6--I think you have

21

the original of that exhibit before you--indicates that on

22

March 6, 1973 you sold Teltronics stock for the accounts

23

of--I can't remember the names; who is the first person on

24

the list?

25

A Pasquale LoBasso.

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Polak

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2

Q And is this a discretionary account, Mr. LoBasso's?

3

A Every account is a discretionary account.

4

5

Q Could you tell me on what you based your determination to sell Teltronics stock for the LoBasso account on January 9, 19--I am sorry, on March 6, 1973?

6

7

MR. BERMAN: Well, I think that we are

8

getting into a situation that I want to go on the

9

record, that many purchases of the stock, of various

10

reasons that they invested and various companies and

11

their accounts, may vary.

12

And whereas one needed short term gain,

13

another short term or long term gain, he treated every

14

account individually. And the fact that they all pur-

15

chased the same stock does not necessarily mean that

16

they all had the same investment aims.

17

I would assume that probably goes through to

18

everybody on the entire chart; so it could serve no

19

useful purpose to go into the individual buys and sells

20

on behalf of each individual account of the purchases

21

of the Teltronics stock.

22

MR. BLOCK: Mr. Berman, Mr. Polak seeks

23

to represent as a class representative all of these

24

people on this list, among others. And if he did

25

things which may be inconsistent for one account, as

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
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opposed to another account, that bears directly on the
question of class representation.

4

5

6

7

8

MR. BERMAN: He only represents those
people who are holders. And if certain people sold
for various other reasons, it has absolutely nothing
to do with any conflict. You keep talking about con-
flict of interest. I don't see any conflict.

9

10

11

MR. BLOCK: He didn't purport to represent
only holders, unless you wish to stipulate that that
is who he represents.

12

MR. BERMAN: Purchasers.

13

14

MR. BLOCK: I am asking about these people
who are purchasers.

15

16

17

18

19

20

MR. BERMAN: The individual reasons, why
each individual account sold or didn't sell, has
absolutely nothing to do and is not germane to the
issues here whatsoever; because it is independent,
having nothing to do with his representing the entire
class.

21

22

23

THE WITNESS: Excuse me; I can answer
this special case; I know the answer, because I know
Mr. LoBasso needed \$1500.00 at the time.

24

BY MR. BLOCK:

25

Q And he asked you for that money?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
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4

A He asked me for \$1500.00. And I looked over his portfolio to see what could be sold, and I sold Teltronics for that reason, fortunately.

5

6

7

MR. BERMAN: That is what I meant. In

each individual case there is an individual reason

why things were done.

8

9

It was not a group reason at that time, why certain ones were sold.

10

11

Q You have made certain allegations in your complaint concerning the prospectus of Teltronics.

12

13

Can you tell us when, in time, you learned these things to be the case?

14

15

16

MR. BERMAN: I object to the question, be-

cause it goes to the merits of the case, not the representation of the class.

17

MR. BLOCK: Specifically, Mr.--

18

19

20

21

MR. BERMAN: We have already had a ruling by the special examiner that the only concern here is his representation of the class, not the merits. We will get to that, of course, later.

22

23

24

25

But you are asking about the merits of the case, with regard to the various aspects of the prospectus; and that is not the function of this deposition today.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 134

2 MR. BLOCK: The question is his ability
3 to represent all of these people.

4 Now, he made a determination at one point
5 to sell for a group of people. Then, according to
6 your answers to interrogatories, he learned that cer-
7 tain information which he believed to be false with
8 respect to the prospectus, and yet he didn't sell for
9 other people. So he sold for some and didn't sell
10 for others, at the time when he had information he
11 claims was false about the company.

12 I think that bears directly on the ability
13 of Mr. Polak to represent the class.

14 MR. BERMAN: At this particular time he is
15 not seeking to get back any recovery for anybody who
16 lost any money as a result of purchasing the stock.

17 And as we told you, individually there were
18 reasons why somebody may want a loss, may want a short
19 term gain, may want a long term gain.

20 And that has nothing to do with the overall
21 representation of the class with regard to the actual
22 fraud, in connection with the preparation and dissemina-
23 tion of the prospectus.

24 MR. BLOCK: I think you are missing the
25 point. Mr. Polak may very well be liable to members

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK1
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of this class. If he is liable to members of the class, he can't represent the class.

And that is what this deposition is all about; that is what we are seeking to ascertain.

MR. BERMAN: I have already made my decision, that he will not answer any individual questions with regard to individual reasons why people sold or didn't sell.

MR. BLOCK: I think then we ought to adjourn the deposition, because it seems to me that these questions go right to the heart of it; and set up a pretrial conference with Judge Canella, and let the Judge make a determination.

MR. BERMAN: I have no objection to that procedure.

MR. BLOCK: Why don't we do that?

Let's indicate that pursuant to an agreement of counsel, this deposition is adjourned, pending the determination by Judge Canella.

MR. BERMAN: I don't agree to an adjournment. You continue, and we will certify these questions. I don't want to have to come back and waste any more time; we have wasted enough time on this. You go ahead and ask your questions. If there are any I

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK1
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object to and you think need certification to the Judge,
there is a proper procedure for doing that. But I
don't want to adjourn. As far as I am concerned, when
today is over, the deposition is through, period;
subject to the ruling of the Court, naturally.

BY MR. BLOCK:

Q Did there come a time when you learned that manage-
ment planned to manufacture its own equipment?

MR. BERMAN: I object to the question.

It has got nothing to do with the representation of
the class; merely goes to the merits of the case.

MR. BLOCK: Again, this is something the
Judge will have to make a determination on.

Q Did anyone at Teltronics ever tell you specifically
that they would never get into manufacturing their equipment?

MR. BERMAN: I object to the question, on
the same ground as previously stated.

Q Did you attend a special meeting that you referred
to previously, where a proxy fight took place concerning
management?

A I did.

Q And did you have proxies at that meeting?

A Yes, I did.

Q Do you recall how you voted your proxies?

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A I think I voted for the new management, for the
3 insurgents.

4

Q Do you recall why you voted for the insurgents?

5

A Because I felt that Mr. Conti had misrepresented
6 the company, had gone into manufacturing against statements
7 that no manufacturing was going to take place; that he had
8 used the company for personal purposes, that he had spent
9 money unwisely, that he was just somebody who had no right
10 to be the president of this company at all.

11

Q Did you have any other reason to vote against Mr.
12 Conti?

13

A No. Just both cases were presented to me at that
14 special meeting, and I finally made my decision.

15

And I must say, I went to the meeting completely
16 objective. I had no special reason to favor the one group
17 or the other group. I listened to both parties, and finally
18 made my decision.

19

Q You mentioned that you were aware that Mr. Conti
20 went into manufacturing. How did you learn that?

21

MR. BERMAN: I object to the question
22 because it is beyond the scope of this examination;
23 on the same ground as previously stated.

24

MR. BLOCK: We understand your objection.

25

Q Did there come a time when you wrote any letters

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
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2 to Mr. Beagon?

3 A Yes. I did write a letter on July 1, 1974, in
4 which I expressed my--in which I expressed my feelings on
5 the fact that the stockholders meeting, annual stockholders
6 meeting was going to take place on a semi-holiday, completely
7 far out on the Island; that I considered an annual meeting
8 the place to ask questions--

9 MR. BERMAN: The letter does speak for
10 itself. Why don't we offer it?

11 MR. BLOCK: Can we have the letter and
12 mark it?

13 MR. BERMAN: We would be happy to.

14 MR. BLOCK: I don't have a copy of it
15 here.

16 MR. BERMAN: Let him mark this in evidence.

17 MR. BLOCK: Make this Exhibit 8 for iden-
18 tification.

19 (Letter dated July 1, 1974 from
20 Jack Polak to Ed Beagon marked
21 Defendants' Exhibit 8 for iden-
tification (Polak) as of this
date.)

22 MR. BLOCK: Let the record reflect that
23 this appears to be a letter from Jack Polak to Ed
24 Beagon dated July 1st, 1974.

25 Q Is this your signature, Mr. Polak?

EXHIBIT A. TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

139

2

A That is my signature.

3

4

Q Item 10 of Exhibit Polak 8 talks about purchase
of stock by the company, its own stock.

5

6

Would you tell me where you learned of this parti-
cular statement?

7

8

9

MR. BERMAN: I object to the question;
nothing to do with the relevance of his representing
the class.

10

11

MR. BLOCK: You are not going to let him
answer it?

12

13

14

15

MR. BERMAN: I don't think it has anything
to do with this case. In all probability, if you look
at the balance sheet, it probably shows a stock re-
purchase.

16

17

MR. BLOCK: I am asking where he learned
it from.

18

19

20

21

MR. BERMAN: However, it has got nothing
to do with whether he is a valid representative, with
regard to anybody who purchased the stock as a result
of the fraud in the original prospectus.

22

23

24

25

For the record, it is contained in the 1973
annual report to the stockholders, under footnote num-
ber 5.

Q Is that where you learned of it, Mr. Polak?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

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2

A Yes.

3

Q Did Mr. Beagon ever meet with you after you wrote
4 that letter?

5

A No. After I received the letter, I got a tele-
6 phone call from--

7

MR. BERMAN: After you sent the letter.

8

A After I sent out the letter, I got a telephone
9 call from the lawyer of the company.

10

Q Who was that?

11

A I don't recall the name.

12

And I subsequently talked with him for about
13 forty-five minutes on the telephone.

14

Q Did he indicate to you he was going--did you in-
15 dicate to him that you were going to sue Teltronics at that
16 time?

17

A Most certainly not. I wanted answers on my
18 questions, and he tried to give me some answers to some of
19 the questions.

20

I at that time asked him to make sure that my let-
21 ter was going to be made part of the annual meeting. And I
22 would say at the end, he said that he could not promise me
23 that.

24

Q Are you aware of how many persons you seek to rep-
25 resent in this class action that you have brought?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

141

2

A I would have to look it up.

3

Q You have no knowledge?

4

MR. BERMAN: We won't know until we can

5

determine from the company's records exactly who the

6

initial purchasers were, and those that purchased in

7

the first ninety day period.

8

Q Mr. Polak, can you tell me what your earnings
9 were for the year 1973?

10

MR. BERMAN: I object to the question.

11

That is completely irrelevant.

12

Q And for the year 1974?

13

MR. BERMAN: Same objection.

14

Q Can you tell me what your present net worth is?

15

MR. BERMAN: No. No answer to that ques-
16 tion, on the same ground.

17

Q Mr. Polak, have you made any arrangements regard-
18 ing fees and expenses for this litigation?

19

MR. BERMAN: Objection to that question,
20 too.

21

MR. BLOCK: On what ground?

22

MR. BERMAN: It is completely irrelevant.

23

However, you can answer that question. I
24 don't really care.

25

A Mr. Berman took this case on a contingent basis.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

142

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3

4

Q Are you aware that you have to pay all the expenses that might be incurred in connection with this litigation?

5

6

7

8

9

Q MR. BERMAN: The arrangement that I have made with Mr. Polak entails the fact that our firm has agreed to take on this litigation purely on a contingent basis, with regard to costs, disbursements and fees.

10

11

12

Q Is it your understanding, Mr. Polak, that you will not have to pay for costs and disbursements of this litigation?

13

14

15

16

A That's right.

17

18

19

Q Is it your understanding that you will not have to pay anything if this litigation is determined adversely to you?

20

21

22

A That's right.

23

24

25

Q Are you willing to pay the cost of notices to each member of your class; are you, personally?

MR. BERMAN: We have already said this, as part of the expenses that our firm has agreed to be responsible for in order to continue this action.

Q And Mr. Polak, it is your understanding you will not have to pay back any of these fees, should this litigation be determined adversely?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

143

1

2

A That's right.

3

4

Q Are you a plaintiff in any other litigation, presently?

5

A Yes, I am.

6

Q And what litigations are those?

7

8

A Maybe Mr. Berman can answer. One on the Noel Industries.

9

MR. BERMAN: There are two other matters

10

that I believe that you are a plaintiff for. One is

11

Polak against Noel Industries, a firm trading on the

12

American Stock Exchange. And there is a private

13

action that you are one of several plaintiffs included

14

against something called Gemini Rising, I believe.

15

THE WITNESS: With regard to the purchase

16

of some bonds.

17

Those are the only two that I am aware of.

18

19

Q And is there something called Polak versus California Time?

20

MR. BERMAN: That is a case that has been

21

settled, where Mr. Polak commenced an action on behalf

22

of the shareholders of a 1969 program. And we obtained

23

a judgment against the defendant for \$1,500,000.00 on

24

behalf of all of the plaintiffs, for fraud in connection

25

with the sale and dissemination of shares with

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

Polak

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regard to a prospectus written in 1969.

THE WITNESS: There is one more case pending by another lawyer against Medical Analytic.

Q Are you a plaintiff in this case?

A Yes, I am one of the plaintiffs in this case.

Q Is that a securities fraud case?

A Yes.

Q Where is that pending?

A New York City.

Q Which court?

A I have no idea.

Q Have you testified in that case?

A Not yet.

Q Have you testified in any cases?

MR. BERMAN: Well, let the record show that he testified in the California Time case, when we were successful in getting a judgment of a million and a half dollars.

Q Did you collect that judgment, Mr. Polak?

MR. BERMAN: I move to strike the question as completely immaterial and irrelevant.

MR. BLOCK: You have made a point that you recovered a judgment. I want to--

MR. BERMAN: We are in the process of

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

145

2

collecting it now.

3

4

5

6

He testified in the Noel case in which he was
certified as a proper class representative by Judge
Polak. He has not testified in the Gemini Rising case,
as far as I remember.

7

8

Q Mr. Polak, with respect to Noel Industries, was
your fee arrangement the same as it is in this case?

9

A With my clients?

10

Q No, with your lawyer.

11

A With my lawyer, exactly the same.

12

13

Q So you didn't have to pay for any of the costs or
disbursements of the litigation?

14

A No.

15

16

Q And with regard to California Time, was that the
same situation?

17

18

19

MR. BERMAN: No, in the California Time
case we had a preliminary retainer to cover all of the
costs and out-of-pocket disbursements.

20

MR. BLOCK: In the Gemini case?

21

22

MR. BERMAN: There was also a retainer
to cover preliminary costs and disbursements.

23

24

MR. BLOCK: Do you know who the lawyer is
in that case?

25

MR. BERMAN: In the Gemini case we

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 146

2 represent a group of plaintiffs of which Mr. Polak is
3 one; and that is not a class action.

4 MR. BLOCK: At this time let's just iden-
5 tify some additional documents; and then we will
6 adjourn, pending a ruling from the Judge with respect
7 to the questions.

8 MR. BERMAN: So long as it is understood,
9 in the event the ruling is negative with regard to
10 your request, that that will be the termination of the
11 deposition of Mr. Polak herein.

12 MR. BLOCK: I am not going to make a
13 stipulation at this time, but you have made your state-
14 ment and position clear for the record.

15 Let's mark as Exhibit 9 for identification a
16 preliminary prospectus dated September 15, 1972.

17 (Preliminary prospectus dated
18 September 15, 1972 marked
19 Defendants' Exhibit 9 for iden-
20 tification (Polak) as of this
21 date.)

22 (Documents marked respectively
23 Defendants' Exhibits 10 through
24 20 for identification (Polak)
25 as of this date.)

22 MR. BERMAN: Off the record.

24 (Discussion off the record.)

25 Q Before we identify each of these documents, Mr.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

147

2

Polak, when Shaskan & Company went into liquidation, could
3 you tell me how many accounts you still had with the firm?

4

MR. BERMAN: Off the record.

5

(Discussion off the record.)

6

Q Mr. Polak, at the time Shaskan went under, did you
7 have any accounts still with Shaskan?

8

A Unfortunately, yes.

9

Q Did you have all the accounts you had previously
10 had with Shaskan?

11

A Yes.

12

Q Did you transfer out any accounts prior to Shas-
13 kan's demise?

14

A As far as I can recall, no.

15

Q What happened to those accounts when Shaskan went
16 into liquidation?

17

A Shaskan, fortunately, did not have accounts in
18 their own name, but were trading through another broker.

19

Q What firm was that?

20

MR. BERMAN: You mean clearing through

21

another broker?

22

A Clearing through another broker. I don't recall
23 the name anymore.

24

So I had no problem in cash or securities, which
25 were all subsequently transferred, on my instructions, to

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

148

2

another broker.

3

Q Did Mr. Bartels ever tell you that Shaskan was
going to close its doors?

4

5

A Never.

6

Q They closed their doors and then you learned of
it?

7

8

A It came as much of a surprise to him as to me.

9

Q Did Mr. Bartels ever tell you that the New York
Stock Exchange was threatening to suspend Shaskan's member-
ship?

10

11

A He never told me.

12

13

Q Did he never indicate to you any financial dif-
ficulties at Shaskan?

14

15

A He expressed some feelings of uncertainty, but
not as dramatic as the outcome was.

16

17

Q When did he first express these feelings of un-
certainty?

18

19

A I think a few weeks before the event occurred.

20

Q In May?

21

A Yes.

22

23

MR. BERMAN: I think he answered a few
weeks before the event occurred. I don't think we know
the date Shaskan went out of business.

24

25

THE WITNESS: I would say May 1973.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 149

2 Q Did you discuss with him at that time what effect
3 Shaskan's going out of business, if it did, would have on
4 Teltronics stock?

5 A I may--I don't recall.

6 Q And what did he say; if you recall?

7 A He didn't say he did.

8 Q Do you remember him saying anything to that ef-
9 fect?

10 A No.

11 MR. BERMAN: I think he already testified
12 that Mr. Bartels didn't know that it was going out of
13 business, and didn't indicate it was going out of
14 business. So obviously, they couldn't have had a
15 conversation about what would have happened if a firm
16 that went out of business went out of business, if it
17 wasn't supposed to go out of business, and how it
18 would effect the market price of a stock.

19 MR. BLOCK: Why don't we go into these
20 exhibits and just have them identified.

21 Q Mr. Polak, I show you what we have marked as Exhi-
22 bit 9, which is a preliminary prospectus dated September
23 15, 1972.

24 Let me ask if you have ever seen the document
25 before?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

150

2

A Yes, I have seen this.

3

Q Do you recall when in time you first saw it?

4

A I received this prior to Teltronic's going public.
I must have received it in October.

6

Q Did you have any questions with Mr. Bartels con-
cerning the content of that document?

8

MR. BERMAN: I assume that the preliminary
prospectus labeled as Defendants' Exhibit 9 is, in
effect, the prospectus that was filed with the Securi-
ties & Exchange Commission; and was, in effect, dis-
seminated to the various people.

12

13

MR. BLOCK: I think I got it from your
office, Mr. Berman.

14

15

MR. BERMAN: Is that our copy?

16

MR. BLOCK: I think so.

17

I am told by Mr. Tananbaum that it is not.

18

I can't represent where it comes from.

19

MR. BERMAN: I just don't want him to say
he received it unless it is the exact one. I don't
know if there were two or three different preliminary
prospectuses. He just knows he did receive a pre-
liminary prospectus.

21

22

23

24

We can't verify that this particular one is
the particular one that he received?

25

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1

Polak

151

2

MR. BLOCK: No, as a matter of fact, this
3 is not.

4

MR. BERMAN: Mr. Tananbaum said this
5 is not our exhibit, that this was theirs. And this is
6 not necessarily--you didn't give us any preliminary
7 prospectus, as far as I understand.

8

THE WITNESS: I do remember receiving a
9 preliminary prospectus, maybe even two. I don't--

10

BY MR. BLOCK:

11

Q Let me show you what has been marked as Exhibit
12 10, which is the preliminary prospectus dated December 21,
13 1972, and ask you if you have ever seen that document?

14

A Yes, most certainly that. I just said I remember
15 receiving one, maybe two. So that must, I must have re-
16 ceived them both.

17

Q Let me show you Exhibit 11, which is a prelimin-
18 ary prospectus dated January 5, 1973, and ask if you have
19 ever seen that document?

20

MR. BERMAN: Let the record state that

21

you have shown the plaintiff herein three preliminary
22 prospectuses of varying dates. He does not know which
23 he received at this particular time. I assume he will
24 go back and check through his records, and see which
25 he may have received. At this time he certainly cannot

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 152

2 identify any of the three preliminary prospectuses.

3 A All I know is that any underwriter on any new
4 issue sends me any preliminary prospectus coming out. So
5 as such, I am sure I must have received--

6 Q And Shaskan usually sent you--

7 A Oh, most certainly.

8 Q I show you what we have marked as Exhibit 12 for
9 identification, and ask you if you have ever seen this
10 document before?

11 Let the record reflect that Exhibit 12 purports
12 to be the Teltronics annual report for 1972.

13 A Yes, I have seen this.

14 Q Do you recall when and under what circumstances
15 you first received it?

16 A I received it subsequent to the meeting on May
17 18, 1973, which I attended.

18 MR. BERMAN: That is, prior to the meet-
19 ing?

20 THE WITNESS: Yes, prior to the meeting.

21 Q I show you what has been marked as Exhibit 13,
22 which purports to be a notice of annual meeting dated May
23 18, 1973, and ask if you have ever seen this document?

24 A Yes, I did see it. I received it before going
25 to the meeting.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK1
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Polak

153

Q I would like to show you what has been marked as Exhibit 14 for identification. It is a letter from a Mr. Conti dated March 14, 1973, addressed to the shareholders.

Have you ever seen that?

A I saw that letter, and I have it in my file.

Q Look at the second page of that letter. Could you tell me if that is your handwriting?

A Yes, that is my handwriting.

That was when Mr. Conti started to talk at the special meeting of stockholders, and was trying to tell everybody how fantastic a guy he was. And I do remember getting a little bit itchy at the annual meeting.

Q Could you read for the record--

A And I just made that note. And then I think I got up and I said at a certain moment, while Mr. Conti was talking, exactly what I was writing down here.

Q Could you read that into the record, please?

MR. BERMAN: Well, the exhibit speaks for itself.

MR. BLOCK: I can't read his handwriting.

A "I do not need a repeat speech from the annual meeting. I think it is out of order."

Q That was just a note to yourself?

A Yes.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK1
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Polak

154

Q I show you what has been marked as Exhibit 15 for identification, which purports to be a notice of the annual meeting of shareholders of July 5, 1974, and an attached proxy statement, and ask if you have ever seen this document before?

A I most certainly saw this notice, as my long letter was written after receiving this notice.

Q That is the July 1st letter?

MR. BERMAN: That is the letter referred to as Defendants' Exhibit 8 for identification.

Q I show you what has been marked as Exhibit 16 for identification, which purports to be a letter dated July 14, 1973, addressed to shareholders, signed by several Teltronics officers, and ask if you have ever seen that document before?

A I did see that letter, yes.

Q Would you tell me when you first saw that?

A Around the time it was written.

Q Let me show you what has been marked as Exhibit 17 for identification, a document having the name Claude C. Conti on the top, and an attached proxy statement. And I ask you if you have ever seen this document?

A I did see it.

Q Let me show you what has been marked as Exhibit

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK1
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Polak

155

18 for identification. It is a letter dated July 27th, also signed by several Teltronics officers, and ask you if you have ever seen that document?

A Yes, I did see that letter.

Q Let me show you what has been marked as Exhibit 19 for identification, which purports to be an article from the Wall Street Journal, undated, and ask you if you have ever seen this document?

A Yes, I most certainly saw this.

Q Does that document come from your files?

A I don't think it was in my file. I would like to have a copy.

MR. BERMAN: Are these our exhibits given to you? Do we have copies of all of these?

MR. BLOCK: I will give you copies.

Q Let me show you what has been marked as Exhibit 20 for identification, and ask you if you have ever seen this document? 20 appears to be a news release issued by Sofness & Drum, Inc. concerning Teltronics.

A Yes, I did see it. In fact, that was a release which was given to us at that annual meeting in 1973.

MR. BLOCK: As a last bit of housecleaning, we had asked for the production of documents, and Judge Canella had ordered the production; and I

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 156
2 thought we were to get them today.
3 MR. BERMAN: What documents are you refer-
4 ring to? Mr. Zivjak handled the file, and I assumed
5 he had taken care of all the production of documents.
6 MR. BLOCK: Well, Judge Canella further
7 ordered that plaintiff supply the documents requested
8 by defendants' counsel in the letter of January 16,
9 1975, or serve responsive objections on or before the
10 28th day of February 1975.
11 MR. BERMAN: I was under the impression
12 that you had received all the documents that you were
13 looking for.
14 MR. BLOCK: No, we didn't receive any
15 documents.
16 MR. BERMAN: Let's just see what your
17 document schedule is. Maybe some of these here are
18 the documents you are referring to.
19 Let the record also read that all of these
20 exhibits marked for identification will be left with
21 the attorneys for the defendants herein, who have
22 advised the undersigned that you will make copies and
23 return to us a complete set of all the documents that
24 have been marked for identification, within a reason-
25 able time; is that correct, Mr. Block?

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 157

2 MR. BLOCK: Yes.

3 BY MR. BLOCK:

4 Q On the Noel Industries case--

5 MR. BERMAN: Are we going back to the depo-
6 sition again? Come on--

7 MR. BLOCK: Just one or two--

8 MR. BERMAN: You said you had completed;
9 all we are now doing is marking exhibits. You want to
10 go back?

11 MR. BLOCK: Tell me what you want before
12 we go on the record.

13 (Discussion off the record.)

14 MR. BERMAN: Let the record indicate that
15 the plaintiff has already understood that the deposi-
16 tion had been terminated; we are now marking exhibits,
17 and that now the defendant has requested two more
18 questions; which we have no objection to, provided
19 there is an end to the deposition, and that every time
20 we are about to leave, he doesn't remember two more
21 questions.

22 Q Who was the underwriter of Noel Industries?

23 MR. BERMAN: Let the record show that we
24 didn't purchase any shares of Noel Industries from the
25 original underwriting, and that was not part of the

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 Polak 158

2 case. The Noel Industries case happens to be a case
3 where there were false financial statements reported,
4 allegedly in the ninth month of their fiscal year,
5 based upon which certain shares were purchased; and
6 the suit has nothing to do with the original under-
7 writing. We have no idea who the original underwriter
8 was on it.

9 Q Did you purchase Noel Industries stock through
10 Shaskan & Company?

11 MR. BERMAN: Let the record also indicate
12 that--

13 A For any stock which is involved in the present
14 lawsuit, no.

15 Q Did you purchase Noel Industries for clients
16 through Shaskan & Company?

17 A Five, six years ago, yes.

18 MR. BERMAN: Let's rephrase the question.
19 With regard to the lawsuit; is that what
20 you are referring to?

21 MR. BLOCK: Yes.

22 MR. BERMAN: None of those purchasers
23 purchased through Shaskan & Company. It had nothing
24 to do with that lawsuit.

25 MR. BLOCK: At this time we close the

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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Polak

158-A

deposition, subject to rulings from Judge Canella.

(Time noted, 1:00 p.m.)

Subscribed and sworn to before me
this _____ day of _____, 1975.

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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C E R T I F I C A T E

STATE OF NEW YORK)
 :ss
COUNTY OF NEW YORK)

I, MICHELE FISCHER, a Certified Shorthand
Reporter and Notary Public within and for the State
of New York, do hereby certify:

That I reported the continued deposition of
JACK POLAK (pages 104-158-A) and that such deposition
is a true record of the testimony given by such
witness.

I further certify that I am not related to
any of the parties to this action by blood or marriage
and that I am in no way interested in the outcome
of this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 6th day of April, 1975.

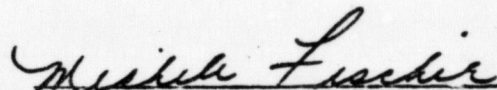

MICHELE FISCHER, CSR

EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

1 160

2 March 27, 1975

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4

I N D E X

5

WITNESSES

6

7	<u>DEFENDANTS'</u>	<u>EXAMINATION BY</u>	<u>PAGE</u>
8	Jack Polak	Mr. Block	105

9

10

EXHIBITS

11

12	<u>DEFENDANTS'</u> <u>(POLAK)</u>	<u>FOR IDENT.</u>
13		

13

14	5	Fee schedule,	105
----	---	---------------	-----

15	6	Document entitled "Teltronics	106
----	---	-------------------------------	-----

16		Services, Inc.," list of	
17		names and transactions,	
		Exhibit A to answers to inter-	
		rogatories,	

18	7	Report by Preston Pumphrey &	128
19		Company, Inc., undated, en-	
		titled "The New Telephone	
		Industry, Enter-Connect,"	

20	8	Letter dated July 1, 1974 from	138
21		Jack Polak to Ed Beagon,	

21

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EXHIBIT A TO BLOCK AFFIDAVIT - TRANSCRIPT OF
DEPOSITION OF JACK POLAK

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March 27, 1975

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INDEX OF EXHIBITS, Cont'd.

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6

DEFENDANTS'
(POLAK)FOR IDENT.

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9

Preliminary prospectus dated
September 15, 1972,

146

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10 through
20

Documents marked respectively,

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**EXHIBIT B TO BLOCK AFFIDAVIT - EXHIBIT TO
PLAINTIFF'S RESPONSES TO INTERROGATORIES**

Name of Stock: <i>TELEPHONE SERVICES INC.</i>										
Block	Date	Name of Client	No. Sh.	Bought		Sold		Long Term		Short Term
				Price	Amount	Date	Price	Amount	Long Term	
<i>11</i>	<i>7/1</i>	<i>International Telephone</i>	<i>100</i>	<i>10</i>	<i>1000</i>	<i>7/1</i>	<i>4 1/2</i>	<i>457.25</i>	<i>-562.75</i>	
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>					
		<i>Brownland</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>7 1/2</i>	<i>307</i>		<i>-91</i>
<i>11L</i>		<i>Brownland</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>23 1/2</i>	<i>111.34</i>	<i>-388.66</i>	
<i>11</i>		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>2 1/2</i>	<i>240.75</i>	<i>-719.25</i>	
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>9</i>	<i>526.10</i>		<i>-73.90</i>
<i>11</i>		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>					
<i>11</i>		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>2 1/2</i>			
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>					
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>2 1/2</i>	<i>511.96</i>	<i>-788.25</i>	
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>2 1/2</i>	<i>188.25</i>	<i>-133.75</i>	
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>8 1/2</i>	<i>840.49</i>		<i>-176.51</i>
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>8 1/2</i>	<i>856.75</i>		<i>-153.25</i>
<i>11</i>		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>17 1/2</i>	<i>322.10</i>	<i>-1677.50</i>	
<i>11L</i>		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>					
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>					
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>9 1/4</i>	<i>906.25</i>		<i>-99.75</i>
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>2 1/2</i>	<i>240.75</i>	<i>-759.25</i>	
<i>11</i>		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>3</i>	<i>289.75</i>	<i>-710.25</i>	
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>7 1/2</i>	<i>586.25</i>		<i>-119.75</i>
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>9</i>	<i>881.00</i>		<i>-118.50</i>
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>					
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>2 1/2</i>	<i>272.50</i>	<i>-727.50</i>	
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>7 1/2</i>	<i>152.50</i>		<i>-152.50</i>
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>9</i>	<i>887.50</i>		<i>-118.50</i>
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>7 1/2</i>	<i>152.50</i>		<i>-152.50</i>
		<i>Quincy</i>	<i>10</i>	<i>10</i>	<i>100</i>	<i>7/13</i>	<i>7 1/2</i>	<i>152.50</i>		<i>-152.50</i>

DEFENDANTS TELTRONICS, BEAGAN, LA CONTE, HUG
AND MONICK'S STATEMENT PURSUANT TO GENERAL
RULE 9(g)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

DOMACO VENTURE CAPITAL FUND, :

Plaintiff, :

-against- : 74 Civ.3014 (J.M.C.)

TELTRONICS SERVICES, INC., et al., :

Defendants. :

-----x

DEFENDANTS' STATEMENT PURSUANT
TO GENERAL RULE 9(g)

Defendants Teltronics Services, Inc. ("Teltronics"),
Edward M. Beagan, David A. LaConte, Gerard F. Hug and Gilbert
Monick contend that there exist issues to be tried with respect
to the following facts:

1. Jack Polak caused or induced the named plaintiff
and numerous other persons to purchase Teltronics stock in
January 1973.
2. Polak, in conversations with Stanley Bartels, a
senior vice president of Shaskan & Co., Inc. ("Shaskan"), obtained
information concerning Teltronics not contained in Teltronics'
prospectus.
3. Bartels gave assurances to Polak concerning
Teltronics future earnings, the likely price for Teltronics
stock after the offering was completed and Teltronics' position
in the interconnect industry.

DEFENDANTS TELTRONICS, BEAGAN, LA CONTE, HUG
AND MONICK'S STATEMENT PURSUANT TO GENERAL
RULE 9(g)

4. Based on this information, not contained in the Teltronics prospectus, Polak caused or induced his clients to purchase Teltronics stock.

5. Polak, prior to the transaction at issue in this litigation, made an independent investigation of Teltronics in the course of which he learned the truth concerning the facts now claimed to have been misrepresented in the prospectus.

6. Polak, prior to the transaction at issue in this litigation, was assured and guaranteed by Bartels that Polak's clients would suffer no monetary loss as a result of their purchases.

7. Prior to the collapse of Shaskan, Polak was told of Shaskan's financial difficulties and the impact that Shaskan's collapse would have on the market price of Teltronics stock, although such information was not available to the general public or to Teltronics.

8. While in possession of material non-public adverse information concerning the price of Teltronics stock, Polak, Bartels, Shaskan and certain persons affiliated with Shaskan caused Teltronics to purchase its own stock from Shaskan.

9. Polak, while in possession of material non-public adverse information concerning the price of Teltronics

DEFENDANTS TELTRONICS, BEAGAN, LA CONTE, HUG
AND MONICK'S STATEMENT PURSUANT TO GENERAL
RULE 9(g)

stock, caused all or some of the accounts he controlled to sell
their holdings of Teltronics stock.

Dated: New York, New York
July 3, 1975

Respectfully submitted,

WEIL, GOTSHAL & MANGES

By: Dennis J. Block
(A Member of the Firm)
Attorneys for Defendants
Teltronics Services, Inc.,
Edward M. Beagan, David A.
LaConte, Gerard F. Hug and
Gilbert Monick
767 Fifth Avenue
New York, New York 10022
(212) 758-7800

OF COUNSEL:

Dennis J. Block
Neal Schwarzfeld
Andrew H. Tananbaum

MEMORANDUM AND ORDER APPEALED FROM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

DOMACO VENTURE CAPITAL FUND,
a limited partnership,

Plaintiff,

MEMORANDUM
AND ORDER

-against-

TELTRONICS SERVICES, INC.,
SHASKAN & CO., INC., CLAUDE C. CONTI,
EDWARD M. BEAGAN, THOMAS R. RAMSEY,
DAVID A. LaCONTE, GERARD F. HUG,
GILBERT MONICK and JEFFREY A. MOROSS,

74 Civ. 3014
(JMC)

Defendants.

-----X

CANNELLA, D.J.:

Motion of plaintiff Domaco Venture Capital Fund ["Domaco Fund"], a New York limited partnership and closed-end investment company, to have this case denominated a class action pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure is denied. Motions of the Teltronics defendants to serve and file a third-party complaint, cross-claims and a first amended answer, are granted. Motions of Jack Polak pursuant to Rules 12(f), 56 and 42(b) of the Fed. R.Civ.P. are denied.

The complaint in this case alleges that a prospectus issued by Teltronics Services, Inc. ["Teltronics"] dated January 9, 1973 included material misrepresentations

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and omissions. Plaintiff seeks to represent a class consisting of all purchasers of Teltronics stock between January 9, 1973 and April 9, 1973, who bought stock in reliance upon the prospectus. This class is estimated to include between 250 and 300 investors. The defendants oppose the class motion on the ground that the named plaintiff is an inadequate representative.

FACTS

Jack Polak is an investment advisor who controls and is the sole general partner in Domaco Company. Domaco Company is the sole general partner in plaintiff Domaco Venture Capital Fund, which has 19 limited partners. Polak, in his individual capacity and as president of Equity Interest (a registered investment advisor which manages discretionary accounts for approximately 160 clients) is the sole investment advisor for Domaco Venture Capital Fund. As Mr. Polak put it, "[e]ach limited partner in the Domaco Venture Capital Fund knew that Jack Polak was going to manage \$15,000 for them." (Polak Deposition at 57). In this capacity "Jack Polak acts as an investment advisor and in connection therewith has purchased the stock of Teltronics on behalf of certain of his clients." (Answers to Interrogatories at 8(g)A.

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Polak is and was a close friend of Stanley Bartels, a registered representative with the now defunct broker-dealer Shaskan & Co., Inc. ["Shaskan"]. Mr. Bartels, who executed most, if not all, of the transactions that Polak brought to Shaskan, had numerous discussions with Polak concerning Teltronics as an investment possibility. During the period with which this suit is concerned, Shaskan was the main market maker in Teltronics stock. On June 20, 1973, Shaskan went out of business.

The above facts are undisputed and form the basis for the third-party complaint which the Teltronics defendants seek leave to serve upon Polak, Equity Interest, Shaskan, Bartels and two directors and controlling persons of Shaskan.* In the third-party complaint it is alleged that Bartels urged Polak to invest his clients' money in Teltronics and that as a result of these communications from Bartels and Polak's independent investigation, Polak and/or Equity Interest purchased 11,700 shares of Teltronics stock from Shaskan on behalf of approximately 50 clients. It is alleged that some time prior to May 17, 1973 the

* This motion has not been opposed and it is granted as is the motion to serve and file a first amended complaint and to assert cross-claims against Shaskan.

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Shaskan defendants became aware that Shaskan was in serious financial difficulty and that the New York Stock Exchange was threatening to suspend its membership. This allegedly constituted inside information with regard to the purchase and sale of Teltronics stock in that a suspension of Shaskan would prevent it from trading Teltronics stock and would result in a substantial decline in the stock's trading price. It is further alleged that the Shaskan defendants did not disclose this information to Teltronics, but that some time prior to May 17, 1973 Bartels disclosed this inside information to Polak. Acting upon this inside information, Polak is said to have selectively sold his clients' Teltronics stock.

Counts I through IV of the complaint seek contribution from Polak and others if Teltronics is found liable to plaintiff and the proposed class. These counts allege that Polak caused Domaco Fund and other class members to purchase Teltronics stock despite the fact that he knew certain material adverse information regarding Teltronics and that Polak himself made false and misleading statements in order to induce certain of his clients to purchase Teltronics stock. Counts V, VI and VII allege that Polak, Shaskan and others made false and misleading statements to Teltronics in order to induce it to buy 11,750 shares of

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its stock from Shaskan. The eighth and final count alleges that Polak and others breached their fiduciary duty to Teltronics by using inside information to their own benefit and to Teltronics' detriment.

In an affidavit in support of a motion pursuant to Rules 12(f) and 56 of the Fed.R.Civ.P., Polak denies that he received any inside information from Bartels. An affidavit from Bartels denies that he ever told Polak that Shaskan was in a precarious financial position. Polak points out that between April 10, 1973 (he is alleged to have received the inside information some time prior to May 17) and June 19, 1973 (the day before Shaskan closed its doors) he caused the sale of only 2,820 shares of Teltronics, leaving his clients and entities in which he had an interest with 6,480 shares.

Based upon these facts and allegations the defendants urge that Domaco Fund, being the creature of Polak, is an inadequate class representative whose interests are antagonistic to other members of the class. Treating Polak and Domaco Fund as one for the purpose of this motion, there are three possible bases for rejecting Polak as the named plaintiff: (1) As a result of the third-party complaint Polak faces liability himself and is therefore subject to pressures which may cause him to protect his

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interests to the detriment of the interests of the class; (2) Polak plays a "dual role" as class representative and the individual responsible for certain class members having purchased Teltronics; (3) Polak may be subject to a claim that he was a tippee by those class members he did not represent in his securities business.

The requirement that a class representative be in a position to adequately protect the other members of the class is found both in Rule 23 itself and in the due process clause of the Constitution. As Chief Justice Stone stated in Hansberry v. Lee, 311 U.S. 32, 45 (1940),

a selection of representatives for purposes of litigation, whose substantial interests are not necessarily or even probably the same as those whom they are deemed to represent does not afford that protection to absent parties which due process requires.

While it is impossible to assure that a representative is adequate, at the very least, a court should reflect upon whether the representatives' self-interest coincides with the interests of the class or conflicts with those interests. See Eisen v. Carlisle & Jacquelin, 391 F.2d 555, 562 n.6 (1968).

Here, Polak faces potential personal liability as a result of Teltronics' third-party complaint. This creates

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a situation wherein the class action may be "leveraged." That is, Polak's conduct as class representative may be affected by the fact that he faces personal liability to those parties he is suing in the class action based upon a claim which bears a substantial factual relationship to the claim which Polak seeks to press on behalf of the class. The First Circuit dismissed a derivative suit in an analogous situation where the principal of the corporate derivative-plaintiff was involved in other litigation with the corporate defendant. G.A. Enterprises, Inc. v. Leisure Living Commun. Inc., 517 F.2d 24 (1st Cir. 1975). In that case, G.A. Enterprises ["G.A."] was the plaintiff in a stockholder derivative action against Leisure Living. G.A. was controlled by George Kattar, who had previously sold certain of his business properties to Leisure Living. As a result of these transactions, Kattas and Leisure Living were engaged in litigation involving substantial sums of money. In light of this, the court reached the following conclusion:

GA's own interests, or at least the interests of its principal, suggest that from its standpoint the "highest and best" use of the derivative suit would be as a weapon in the total Kattar arsenal, to be either pursued, de-emphasized, or settled as the future course of the larger claims might dictate. Since the suit threatens Leisure Living's managers with individual liability, it provides leverage that could affect how doggedly they pursue Leisure Living's own claims and defenses against Kattar in other areas. So manipulated,

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the derivative suit would serve interests beyond and perhaps contrary to those of the other minority stockholders.

517 F.2d at 26 (footnotes omitted).** It is just such a situation which the Court seeks to avoid in this case. When this potential conflict is considered together with Polak's dual role as class representative and investment advisor to certain class members, the Court is convinced that Domaco Company is not an adequate class representative.

The motion of third-party defendants Jack Polak and Equity Interest, Inc. for summary judgment on claims one through six of the third-party complaint is denied. A comparison of the contentions found in paragraphs 8, 9, 10 of Polak's 9(g) statement with those found in paragraphs 6, 7, 8 and 9 of Teltronics' 9(g), immediately discloses the inappropriateness of summary judgment in this case. Whether Polak had inside information regarding Teltronics and Shaskan of which he made use cannot be resolved at this stage of the litigation. It is undisputed that he had access to such information and summary judgment cannot be

** The decision in *Hornreich v. Plant Industries, Inc.*, 74-2269 (9th Cir. May 21, 1976) noted in [Current Binder] CCH Fed. Sec. L. Rep. ¶ 95,603, is in accord. There, the derivative plaintiff was found to be an inadequate representative in that he had a previous business relationship with the defendant corporation and was engaged in two pending lawsuits

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granted solely on the basis of denials by Polak and Bartels. These are material issues of fact which cannot be resolved against Teltronics at this time. See, e.g., United States v. Bosurgi, 530 F.2d 1105, 1110 (2d Cir. 1976).

Polak's motion to sever the first through fourth claims of the third-party complaint from the trial of this action is denied without prejudice to renewal at a later date when the issues to be tried have been defined.

SO ORDERED.

John M. Cannella
JOHN M. CANNELLA
United States District Judge

Dated: New York, N.Y.
August 10, 1976.

** (continued)
with them. It was alleged and not rebutted that plaintiff had previously threatened to bring the derivative suit for leverage in his other cases.

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

ALLEN Q. HAYES, being duly sworn,
deposes and says that deponent is not a party to the action,
is over 18 years of age and resides at 162 NANYWIK.
Apt 6A Brooklyn N.Y. 11201

That on the 15 day of NOVEMBER, 1976,
deponent personally served the within APPENDIX

upon the attorneys designated below who represent the
indicated parties in this action and at the addresses below
stated which are those that have been designated by said
attorneys for that purpose.

By leaving 1 true copies of same with a duly
authorized person at their designated office.

By depositing true copies of same enclosed
in a postpaid properly addressed wrapper, in the post office
or official depository under the exclusive care and custody
of the United States post office department within the State
of New York.

Names of attorneys served, together with the names
of the clients represented and the attorneys' designated
addresses.

WEIL GOTSHAL & MANGES
ATTORNEYS FOR DEFENDANTS - APPELLEES
767 FIFTH AVE.
NEW YORK, N.Y. 10022

Sworn to before me this

15th day of November, 1976

Allen Q. Hayes

Michael DeSantis

MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930908
Qualified in Bronx County
Commission Expires March 30, 1978 77